



NATICK BOARD OF SELECTMEN
AGENDA
Edward H. Dlott Meeting Room
Wednesday, September 25, 2019
5:00 PM

Agenda Posted Monday, 9/23/19 at 3:45 p.m.

(Times listed are approximate. Agenda items will be addressed in an order determined by the Chair.)

1. 5:00 OPEN SESSION: Call to order; Roll call vote to enter Executive Session
2. EXECUTIVE SESSION

This portion of the meeting is not open to the public.

- A. Purpose 3 - To discuss strategy with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the public body and the Chair so declares: Public Employees Local Union 1116 (Maintenance and Custodians)
- B. Purpose 3 - To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the Chair so declares: Natick Patrol Officers' Association

3. RECONVENE OPEN SESSION
4. ANNOUNCEMENTS
5. CITIZENS' CONCERNS

Any individual may raise an issue that is not included on the agenda and it will be taken under advisement by the Board. There will be no opportunity for debate during this portion of the meeting. Any individual addressing the Board during this section of the agenda shall be limited to five minutes.

6. DISCUSSION AND DECISION

- A. 2019 Fall Annual Town Meeting (NOTE: A list of Warrant Articles and text are available on the Town Website at Natickma.gov, in the Town Clerk's Office, the Selectmen's Office, the Post Office, the Bacon Free Library, and the Morse Institute Library, and at one location in each precinct)
 - i. Vote to Approve and/or Support Motions for BOS-Sponsored Articles
 - Article 14: Increase Receipts/Property Tax Deferral Program
 - Article 19: Stormwater Management/Erosion Control
 - Article 21: WNFS Signal Control

- Article 25: Hunnewell Field Access

ii. Other Proposed Articles: Article 26: 22 Pleasant Street

B. West Natick Fire Station Building Committee

- a. Create Ex-Officio Position
- b. Accept John Ciccariello's resignation and appoint as Ex-Officio member

C. Dangerous Dog Hearing:

- a. Consider whether to hold a public hearing
- b. Vote to appoint hearing officer if a public hearing is to be held

7. ADJOURNMENT

NEXT MEETING DATES: Tue. 10/1/19; Wed. 10/2/19; Mon. 10/7/19; Mon. 10/28/19

Agenda posted in accordance with Provisions of M.G.L. Chapter 30, Sections 18-25

Meeting recorded by Natick Pegasus

ITEM TITLE: 2019 Fall Annual Town Meeting (NOTE: A list of Warrant Articles and text are available on the Town Website at Natickma.gov, in the Town Clerk's Office, the Selectmen's Office, the Post Office, the Bacon Free Library, and the Morse Institute Library, and at one location in each precinct)

ITEM SUMMARY:

- i. Vote to Approve and/or Support Motions for BOS-Sponsored Articles
 - Article 14: Increase Receipts/Property Tax Deferral Program
 - Article 19: Stormwater Management/Erosion Control
 - Article 21: WNFS Signal Control
 - Article 25: Hunnewell Field Access
- ii. Other Proposed Articles: Article 26: 22 Pleasant Street

ATTACHMENTS:

Description	Upload Date	Type
2019 Fall Annual Town Meeting Warrant	8/27/2019	Cover Memo
Article 14-Motion	9/24/2019	Cover Memo
Article 19-FinCom Questionnaire	9/12/2019	Cover Memo
Article 19-FinCom Correspondence	9/25/2019	Cover Memo
Article 19-Motion Rev 09.24.19 TRACKED	9/25/2019	Cover Memo
Article 19-Motion Rev 09.24.19 FINAL	9/25/2019	Cover Memo
Article 19-10 Wheel Photo	9/25/2019	Cover Memo
Article 21-Map	9/16/2019	Cover Memo
Article 21-Motion	9/23/2019	Cover Memo
Article 26-Motion	9/24/2019	Cover Memo
Article 26-FinCom Questionnaire	9/24/2019	Cover Memo

**WARRANT
FALL ANNUAL TOWN MEETING
OCTOBER 15, 2019**

THE COMMONWEALTH OF THE MASSACHUSETTS

Middlesex, ss

To Any Constable of the Town of Natick in said County:
Greeting:

In the name of the Commonwealth of Massachusetts you are required to notify the qualified Town Meeting Members of the said Town of Natick to meet in the Wilson Middle School, Natick on **Tuesday Evening October 15, 2019 at 7:30 PM**, then and there to act on the following Articles:

- | | |
|------------|--|
| Article 1 | Fiscal 2020 Omnibus Budget |
| Article 2 | Stabilization Fund |
| Article 3 | Operational/Rainy Day Stabilization Fund |
| Article 4 | Capital Stabilization Fund |
| Article 5 | Other Post-Employment Benefits (OPEB) Appropriation or Transfer of Funds |
| Article 6 | Collective Bargaining |
| Article 7 | Personnel Board Classification and Pay Plan |
| Article 8 | PEG Access and Cable Related Fund |
| Article 9 | Rescind Authorized, Unissued Debt |
| Article 10 | Unpaid Bills |
| Article 11 | Capital Equipment |
| Article 12 | Capital Improvement |
| Article 13 | Committee Article |
| Article 14 | Increase Gross Receipts for Eligibility for Property Tax Deferral Program |
| Article 15 | Street Acceptance – Eliot Hill Road, Merifield Lane, Woodcock Path |
| Article 16 | Street Acceptance – Michael Terrace |
| Article 17 | Street Acceptance – Clearview Terrace |
| Article 18 | Amend Article 70 of the Town of Natick By-Laws: Public Works Regulations |
| Article 19 | Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control |
| Article 20 | Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel |
| Article 21 | West Natick Fire Station Signal Controls |
| Article 22 | Amend Article 20 of the Natick Town Bylaws |
| Article 23 | Alteration of Layout of North Main Street (Route 27) and Adjacent Streets |
| Article 24 | Transfer of Land and Grant of Easement to Natick Affordable Housing Trust:
299-301 Bacon Street |
| Article 25 | Access to Hunnewell Fields |
| Article 26 | 22 Pleasant Street |
| Article 27 | Real Estate Transfer Surcharge in Support of Affordable Housing |
| Article 28 | Land Area of the Town and its Makeup |
| Article 29 | Adjust Housing Density and Residential Parking Regulations in the Downtown
Mixed-Use District |
| Article 30 | Amend Zoning By-laws: Creative Production Use Zoning Amendment |
| Article 31 | Amend Zoning By-laws: Specialty Craft Fabrication Zoning Amendment |
| Article 32 | Amend Zoning By-laws: Downtown Business (DB) District Zoning Amendment |
| Article 33 | Amend Zoning By-laws: Non-conforming Uses, Large Residential Additions
Zoning Amendment |
| Article 34 | Amend Zoning By-laws: Alternate Uses In Residential Districts Zoning
Amendment |
| Article 35 | Amend Zoning By-laws: Retail Marijuana Overlay Districts |
| Article 36 | Amend Article 2 Section 10-c of the Charter |
| Article 37 | Report from Town Meeting Practices and Rules Committee |
| Article 38 | Amend the Town of Natick By-Laws: Create New Standing Committee |

- Article 39 Amend the Town of Natick General Bylaws and Zoning Bylaws to Change References to the Board of Selectmen to the Select Board, and to Change References to Chairman to Chair
- Article 40 Amend the Town of Natick Home Rule Charter to Change References to the Board of Selectmen to the Select Board, and to Change References to Chairman to Chair
- Article 41 Contact Information Requirement for Town Meeting Members and Elected Officials
- Article 42 Feasibility Study for Increasing Parking Spaces for Morse Institute Library
- Article 43 Annual Appropriation to Subsidize the Operation of the Lincoln Café at the Community-Senior Center
- Article 44 Rezone Properties Known as 1075 & 1085 Worcester Street from Industrial II to Highway Mixed Use I.

ARTICLE 1
Fiscal 2020 Omnibus Budget
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds or otherwise provide for the operation of the government of the Town of Natick, including debt and interest, during Fiscal Year 2020 (July 1, 2019 through June 30, 2020) and to provide for a reserve fund for Fiscal Year 2020, and to see what budgets for Fiscal 2020 will be reduced to offset said additional appropriations; or otherwise act thereon.

ARTICLE 2
Stabilization Fund
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds or otherwise provide for the purpose of supplementing the Stabilization Fund established under Article 22 of the warrant for Annual Town Meeting of 1961, as authorized by Chapter 40, Section 5B of the General Laws, as amended; or otherwise act thereon.

ARTICLE 3
Operational/Rainy Day Stabilization Fund
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds or otherwise provide for the purpose of supplementing the Operational Stabilization Fund established by vote of the 2011 Spring Annual Town Meeting under Article 4, as authorized by Chapter 40, Section 5B of the General Laws, as amended; or otherwise act thereon.

ARTICLE 4
Capital Stabilization Fund
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds or otherwise provide for the purpose of supplementing the Capital Stabilization Fund established under Article 2 of the warrant for Fall Annual Town Meeting of 2010, as authorized by Chapter 40, Section 5B of the General Laws, as amended; or otherwise act thereon.

ARTICLE 5
Other Post-Employment Benefits (OPEB) Appropriation or Transfer of Funds
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds or otherwise provide for, the Other Post-Employment Benefits Liability Trust Fund established pursuant to the provisions of Chapter 32B, Section 20 of the General Laws as amended by section 15 of Chapter 218 of the Acts of 2016; or otherwise act thereon.

ARTICLE 6
Collective Bargaining
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide, to implement any Collective Bargaining Agreements between the Town Natick and any recognized bargaining units of the Town; or otherwise act thereon.

ARTICLE 7
Personnel Board Classification and Pay Plan
(Town Administrator)

To see if the Town, pursuant to the authority contained in Section 108A of Chapter 41 of the General Laws, will vote to amend Article 24 of the Natick Town By-Laws, specifically the Classification and Pay Plan referenced in Section 3, paragraph 3.10 therein, by adding, deleting or

amending position titles; re-classifying positions to a different Grade; and/or effecting changes in the salary ranges as presently established; or otherwise act thereon.

ARTICLE 8
PEG Access and Cable Related Fund
(Town Administrator)

To see what sum of money the Town will vote to appropriate from the PEG Access and Cable Related Fund, established by vote of 2019 Special Town Meeting #1 under Article 1, as authorized by Chapter 44, Section 53F ¾ of the General Laws, as amended, to fund PEG access programming, as well as certain other municipal cable related expenses; or otherwise act thereon.

ARTICLE 9
Rescind Authorized, Unissued Debt
(Town Administrator)

To see if the Town will vote to rescind the authorization for unissued debt that has been determined is no longer needed for the completion of various projects; or otherwise act thereon.

ARTICLE 10
Unpaid Bills
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Natick; or otherwise act thereon.

ARTICLE 11
Capital Equipment
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, borrow, transfer from available funds or otherwise provide as may be required for capital equipment for the various departments of the Town of Natick; to determine whether this appropriation shall be raised by borrowing or otherwise; or otherwise act thereon.

ARTICLE 12
Capital Improvement
(Town Administrator)

To see what sum of money the Town will vote to raise and appropriate, borrow, transfer from available funds or otherwise provide to implement a Capital Improvement Program, to protect the physical infrastructure of the Town of Natick, to add new physical infrastructure, or to improve community assets; and, further, to determine whether this appropriation shall be raised by borrowing or otherwise; or to otherwise act thereon.

ARTICLE 13
Committee Article
(Board of Selectmen)

To see if the Town will vote to hear and discuss the reports of town officers, boards, and committees; or otherwise act thereon.

ARTICLE 14
Increase Gross Receipts For Eligibility for Property tax Deferral Program
(Board of Selectmen)

To see if the Town will vote to increase the maximum qualifying gross receipts from all sources which an eligible person may have as exempt from property taxes in the prior calendar year, to be eligible to defer property taxes under G.L. c. 59§ 5, Clause 41A; however such maximum qualifying gross receipts amount shall not exceed the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of

Section 6 of Chapter 62 for a single person who is not a head of household. Such increase to be effective for deferrals granted for taxes assessed for any fiscal year beginning on or after July 1, 2019; or otherwise act thereon.

ARTICLE 15
Street Acceptance-Eliot Hill Road, Merifield Lane, Woodcock Path
(Board of Selectmen)

To see if the Town will vote to accept **Eliot Hill Road, Merifield Lane and Woodcock Path** as public ways, and any appurtenant easements thereto, as laid out as shown a plan entitled “Eliot Acres Section II, a Subdivision of land in Natick Mass. “ dated July 30 1966, Prepared by Schofield Brothers Registered Land Surveyors & Civil Engineers, recorded at the Middlesex (South) Registry of Deeds as plan Number 1122 of 1967, book 11401, Page 527; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Eliot Hill Road, and any appurtenant drainage, utility or other easements related to said Eliot Hill Road and/or to accept grants thereof; and further to authorize the Board of Selectmen and other Applicable Town of Natick Boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article; Meaning and intending to accept the remainder of Eliot Hill Road, Merifield Lane and Woodcock Path, such that the entirety of these named roads are accepted by the Town as public ways., or otherwise act thereon.

ARTICLE 16
Street Acceptance – Michael Terrace
(Board of Selectmen)

To see if the Town will vote to accept **Michael Terrace** as a public way, and any appurtenant easements thereto, as laid out as shown a plan entitled “Countryside Acres, Subdivision of Land in Natick Mass. “ dated May 14, 1962, Prepared by McCarthy Engineering Service Inc., recorded at the Middlesex (South) Registry of Deeds as plan Number 1332 of 1963, book 10,363, Page 221; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Michael Terrace, and any appurtenant drainage, utility or other easements related to said Michael Terrace and/or to accept grants thereof; and further to authorize the Board of Selectmen and other Applicable Town of Natick Boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article; Meaning and intending to accept the remainder of **Michael Terrace**, such that the entirety of this named road is accepted by the Town as a public way, or otherwise act thereon.

ARTICLE 17
Street Acceptance – Clearview Terrace
(Board of Selectmen)

To see if the Town will vote to accept **Clearview Drive** as a public way, and any appurtenant easements thereto, as laid out as shown a plan entitled “Revised plan of Eliot Acres Plan of Land in Natick Mass. “ dated September 26, 1966, Prepared by McCarthy Engineering Services, recorded at the Middlesex (South) Registry of Deeds as plan Number 1308(A of 2) of 1966, Book 11245, Last page; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Clearview Drive, and any appurtenant drainage, utility or other easements related to said Eliot Hill Road and/or to accept grants thereof; and further to authorize the Board of Selectmen and other Applicable Town of Natick Boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article; Meaning and intending to accept the remainder of Clearview Drive, such that the entirety of this named road is accepted by the Town as a public way, or otherwise act thereon.

ARTICLE 18
Amend Article 70 of the Town of Natick By-Laws: Public Works Regulations
(Board of Selectmen)

To see whether the Town will vote to amend Article 70 of the Town of Natick By-Laws as follows:

1. Remove the second, third and fourth paragraph of Section 6
2. Insert new Section 8 with the wording:

“Section 8 Private Ways

Snow and Ice Removal. The Town may remove snow and ice from such private ways for emergency vehicle access in accordance with Massachusetts General Laws and Board of Selectmen regulations and policies.

Barriers. Barricades, obstacles, or vehicles on private ways that are a barrier to prompt and appropriate emergency access shall be removed on order of the Police or Fire Chief, at the expense of the owner or owners of the private way. However, if the barrier is a vehicle, it shall be removed on order of the Police or Fire Chief and at the expense of the owner of the vehicle.

Temporary Repairs. The Town may perform temporary repairs to private ways that have been open to the public for a period of at least six (6) years. The Town may only perform temporary repairs in accordance with regulations and policies issued by the Board of Selectmen and that are determined by the Director of Public Works to be required for public necessity.

Said temporary repairs shall be considered necessary if they abate an immediate hazard. They shall not be considered as maintenance of the private way nor shall the way be considered a public way. Cash deposits or payments shall not be required and betterment charges shall not be assessed for said temporary repairs.

The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law. The Town shall not incur any liability whatsoever on account of action or inaction resulting pursuant to this By-Law.”

Article 70 Public Works Regulations

Section 6 Betterments

Whenever betterments are assessed in connection with a public way, the entire cost of the construction of streets on said ways shall be assessed to the abutters and one-half (1/2) of the costs of construction of sidewalks shall be assessed to the abutters, provided, however, that this section shall not apply to a subdivision of land under Section 81 of Chapter 41 of the General Laws as amended.

~~The Director of Public Works may make repairs to private ways providing that an Annual or Special Town Meeting determines that the repairs are required by public necessity and convenience and a majority of the abutters petition for such repairs to be made and that the way has been open to public use for a period of six (6) years. Such repairs shall include the installation and construction of drainage if necessary, and the filling of holes in the sub-surface of such ways and repairs to the surface materials thereof. Materials for such repairs shall, where practical, be the same as or similar to those used for existing surfaces of such ways but may include surfacing the ways with bituminous materials including but not limited to bituminous concrete.~~

~~The Town Administrator shall assess betterment's upon the owners of estates which derive particular advantage from the making of such repairs on any such private way. Such assessment~~

~~shall be a sum equal, in the aggregate, to the total cost of such repairs and, in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter 80 of the General Laws, as amended, relating to public improvements and assessments thereof shall apply to repairs to private ways ordered to be made under this section; provided that no assessment amounting to less than five hundred dollars (\$500.00) shall be apportioned and no assessment may be apportioned into more than twenty (20) portions.~~

~~The Town shall not be liable on account of any damage caused by such repairs.~~

..... (Retain Section 7)

Section 8 Private Ways

Snow and Ice Removal. The Town may remove snow and ice from such private ways for emergency vehicle access in accordance with Massachusetts General Laws and Board of Selectmen regulations and policies.

Barriers. Barricades, obstacles, or vehicles on private ways that are a barrier to prompt and appropriate emergency access shall be removed on order of the Police or Fire Chief, at the expense of the owner or owners of the private way. However, if the barrier is a vehicle, it shall be removed on order of the Police or Fire Chief and at the expense of the owner of the vehicle.

Temporary Repairs. The Town may perform temporary repairs to private ways that have been open to the public for a period of at least six (6) years. The Town may only perform temporary repairs in accordance with regulations and policies issued by the Board of Selectmen and that are determined by the Director of Public Works to be required for public necessity.

Said temporary repairs shall be considered necessary if they abate an immediate hazard. They shall not be considered as maintenance of the private way nor shall the way be considered a public way. Cash deposits or payments shall not be required and betterment charges shall not be assessed for said temporary repairs.

The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law. The Town shall not incur any liability whatsoever on account of action or inaction resulting pursuant to this By-Law, or otherwise act thereon.

ARTICLE 19

Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control (Board of Selectmen)

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

ARTICLE 20

Transfer of land to Conservation Commission: Portions of 165 Mill Street Parcel (Board of Selectmen)

To see if the Town will vote to transfer from the School Committee and the Board of Selectmen to the Conservation Commission, the care, custody, management, and control of a portion of land

adjoining the Kennedy Middle School, identified as 5.28 acres, located at 165 Mill Street, as shown on a Plan entitled “Town of Natick Kennedy Middle School, 165 Mill Street, Natick, Massachusetts, Permitting Documents, Submitted to the Department of Environmental Protection” revision date February 6, 2019, portion identified on that Plan as “Potential Conservation Easement NAE-2019-01219 12-13-2018,” and available for inspection in the Board of Selectmen’s office, for the purposes of dedicating the land in perpetuity for conservation purposes and subject to the strictures and the protections of Article 97 of the Amendments to the Massachusetts Constitution, as required by the permit for File Number NAE-2019-01219, issued by the U.S. Army Corps of Engineers to the Natick School Department on April 16, 2019 ; or to take any other necessary action; or to act otherwise thereon.

ARTICLE 21
West Natick Fire Station Signal Controls
(Board of Selectmen)

To see if the Town will vote, subject and pursuant to General Laws Chapter 40, Section 3, Section 4, and Section 15, and any other enabling law, to authorize the Board of Selectmen to release and convey all right, title and interest held by the Town, to the Commonwealth of Massachusetts Department of Transportation, on such terms and conditions, which may be nominal consideration, as the Board of Selectmen deems appropriate, of a portion of certain Town property located at 268 Speen Street for a shared use walkway for pedestrian travel to be located within the state highway layout , or otherwise act thereon.

ARTICLE 22
Amend Article 20 of the Natick Town Bylaws
(Board of Selectmen)

To see if the Town will vote to amend the chart entitled “MULTIPLE MEMBER BODY APPOINTMENTS MADE BY THE TOWN ADMINISTRATOR” set forth in Article 20, section 5, of the Natick Town Bylaws, to be consistent with the Massachusetts General Laws, by striking the phrase “Commission on Disability”, or otherwise act thereon.

ARTICLE 23
Alteration of Layout of North Main Street (Route 27) and Adjacent Streets
(Board of Selectmen)

To see if the Town will vote to accept as a public way the altered layout of North Main Street (Route 27) and adjacent streets thereto, to include within the layout of North Main Street and adjacent streets certain fee interests and permanent easements as shown on a plan entitled “Layout Alteration Route 27 Roadway Improvements North Main Street Natick, Massachusetts,” dated April 2, 2019, prepared by Lighthouse Land Surveying, LLC, as said plan may be amended, said plan on file with the Town Clerk; or otherwise act thereon.

ARTICLE 24
Transfer of Land and Grant of Easement to Natick Affordable Housing Trust: 299-301
Bacon Street
(Board of Selectmen)

To see if the Town will vote to transfer from the Board of Selectmen to the Natick Affordable Housing Trust, the care, custody, management, and control of land identified as 0.28 acres, Assessor’s Parcel No. 26-0000164A, located at 299-301 Bacon Street, as shown on a Plan entitled “Subdivision Plan on Land in Natick, Midwest Engineering, Inc., Surveyors, dated June 23, 2003,” recorded as Plan Number 18326B with the Land Court Registration Office, deed into the Town of Natick recorded in the Middlesex South Registry of Deeds at Book 1470, Page 1; and further, to authorize the Board of Selectmen to grant to the Natick Affordable Housing Trust, an easement over the Town right-of-way, for the purposes of installation and maintenance of a sewer main, as show in the Plan entitled “Plan and Profile, Sewer Force Main, Plan of Land in

Natick, Mass.”, prepared by Sullivan Surveying Company, LLC, Sheet C2, revision date 7/2/19, on file in the Board of Selectmen’s office; or to take any other necessary action to effectuate the purposes of this Article; or to act otherwise thereon.

ARTICLE 25
Access to Hunnewell Fields
(Board of Selectmen)

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, taking by eminent domain, or otherwise, any interest or interests in all or part of the property located at 22 Pleasant Street, Natick MA, for access to the Hunnewell Fields; and further, to authorize the Board of Selectmen to transfer any portion of town-owned land acquired under the deed recorded in the Middlesex South Registry of Deeds at Book 2962, Page 41, on such terms and conditions, which may be nominal consideration, as the Board of Selectmen deems appropriate, as necessary to effectuate the purposes of this article; and further, to see what sum of money the Town will vote to raise and appropriate, borrow, transfer from available funds or otherwise provide for the purposes of this article; or to act otherwise thereon.

ARTICLE 26
22 Pleasant Street
(Recreation and Parks Commission and Seth Levine et al)

To see what actions the Town will take or vote to change, amend, modify, augment, or supplant its previous votes under Article 35 of 2015 Spring Annual Town Meeting, Article 29 of 2016 Spring Annual Town Meeting, Article 27 of 2017 Fall Annual Town Meeting, or any other Article of any Town Meeting which authorized negotiation, appropriation of funds, raising of funds, transfer from available funds and/or borrowing authorization for the acquisition of property known as 22 Pleasant Street; being shown as Assessors Map 64, Lot 44 in South Natick (the Site) by purchase, gift, eminent domain, or other means.

Provided however that no reduction of any previous appropriation or borrowing authorization may occur under this Warrant Article, except as expressly provided below regarding the substitution in whole or in part of other funds, and further provided that no previous authorization for negotiation, acquisition by gift, purchase, eminent domain or other means may be rescinded under this Warrant Article, but allowing that non monetary restrictions and non monetary conditions (the term ‘non monetary’ meaning other than appropriation or borrowing) in any previous votes may be modified or removed as provided later within this Article; and to allow

- a) That such changes, amendments, or modifications to authorize the Board of Selectmen to purchase, acquire, accept by gift, or take by eminent domain a comprehensive surface and air rights easement for open space, recreation, park, playground, access, parking, boating, and/or other purposes (“Comprehensive Easement”) for all, or substantially all, of the Site; and/or limited or total sub surface easements for all or portions of the Site and/or
- b) That any subsurface easement may vary in depth and/or in lateral scope within the Site in order to avoid areas of underground contamination including but not limited to any areas of contamination that rise or fall with periodic changes in the water table. (The purpose of this provision, including but not being limited to, that any subsurface easement does not need to extend down to or to include any layers of identified underground contamination or underground tanks); and/or
- c) That such Comprehensive Easement may alternatively be used for portions of the Site in conjunction with fee acquisition for other portions of the Site, provided that such combination result, at a minimum, in acquisition of all or substantially all the surface and air rights of the Site; and/or
- d) That a Comprehensive Easement for all or substantially all of the Site or in combination with fee acquisition include all beneficial surface and above ground rights, uses,

buildings, structures, trees, areas of now or former canals located east of Pleasant St. , and the like, and/or in conjunction with limited or total subsurface easements for improvements for utilities and drainage or other subsurface areas; and/or

- e) That the intent of the above clause and purpose of this Warrant Article and the term Comprehensive Easement being that the Town would become the holder of all or substantially all of such beneficial surface and air uses and rights for the benefit of the public and/or Town such that no private rights of surface and/or air rights or uses remain with the current owner of the Site (except as expressly allowed below), but that any underground area or volume of and/or subsurface area of environmental contamination and any contaminated area of the building may be excluded. (This provision being a precaution that easement rights are often narrowly construed allowing a fee owner to retain all rights of ownership and use unless expressly taken or acquired and being that the town would acquire all or substantially all the beneficial surface and above ground uses and rights of the Site.); and/or
- f) That subject to the required provisions and prohibitions stated elsewhere in this Article, Town Meeting may expand the purposes and or remove or modify non monetary conditions or non monetary restrictions in any previous vote of Town Meeting for any acquisition of the Site but only in order to accomplish the purposes of this Article which are at a minimum acquiring all or substantially all of the surface and air rights of the Site; and/or
- g) That the condition in Article 27 of 2017 Fall Annual Town Meeting may be removed or modified, but only to accomplish or to allow the purposes of this Article, which condition stated "provided that the Board of Selectmen is not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property" (it being noted, among other things, that said provision of 2017 Fall Annual Town Meeting might prevent any exercise of any eminent domain power); and/or
- h) That said land be subject to an Activity and Use Limitation to encompass and/or to encapsulate or otherwise restrict use of any areas of or over identified contamination; and/or
- i) That any portion of the Site acquired under this Article may be acquired subject to or provide for a subsequent Activity and Use Limitation especially, but not necessarily, limited to any surface areas above underground contamination; and/or
- j) That an Activity and Use Limitation may provide or require that such areas be paved over and encapsulated. (For example purposes only, as is required of and in the purchase of the contaminated rail trail land acquired by the Town but not restricting the town to the same paving or encapsulation methods or approaches.); and/or
- k) To allow access, whether by right, permission or otherwise, through designated portions of the Site once acquired under this Article for the use of the Wellesley Cooperative Nursery School (or any similar charitable trust successor) located on deed restricted land under the deed of Isabella Pratt Hunnewell Shaw at Merrill Road (a private way) abutting Hunnewell Park; and/or
- l) That other funds may be appropriated, raised or transferred from available funds including, without limitation, any stabilization fund, to substitute for all or part of the borrowing authorization under previous votes of Town Meeting in which case only then may the previous borrowing authorization be reduced under this Article and in which case any remaining borrowing authorization must be maintained in an amount such that the sum of such other funds and any remaining borrowing authorization shall be equal , at a minimum, at the total dollar amount appropriated in previous votes of Town Meeting; and/or
- m) That FAR Bonus Stabilization Funds may be appropriated and used, as part of the acquisition contemplated under this Article, for the portions of the site which are zoned RG and/or RSB and/or for any portion zoned I-1 which is open space; and/or
- n) To allow any fee acquisition, Comprehensive Easement, or combination thereof, either to permit or to require the owner of the Site or other party to:
 - i) remove all or part of the existing building,
 - ii) fill any basement or substructure areas that are removed with clean fill,
 - iii) excavate, remove and replace any contaminated soil with clean fill,

- iv) excavate and remove any underground tanks and replace same with clean fill,
- v) excavate and remove any underground wheels, machines, generators, water flow harnessing devices, and the like and replace same with clean fill,
- vi) the preference being that areas of now or former canals east of Pleasant St not be filled in such a way that such canal use cannot be revived
- vii) specify that such removal and replacement activities may occur either before or for a period of time after the closing on or eminent domain taking of the Town contemplated under this Article,
- viii) that access may be allowed for the owner or other party after the closing, or eminent domain taking for such period of time as the Selectmen may negotiate to accomplish the purposes of this Article, and/or
- ix) that such subsequent access may include monitoring of the Site
- x) that any such subsequent access shall be allowable under this Article notwithstanding any other provision of this Article; and/or
- o) To allow that the Comprehensive Easement may also be used in any combination with fee acquisition such as for example that the parts of the site which are clean and free of buildings may be acquired in fee and the other parts acquired by Comprehensive Easement and that the meaning of Comprehensive Easement may include any combination provided such combination is, at a minimum, for all or substantially all of the surface and air rights of the Site; and/or
- p) That any combination of fee acquisition and Comprehensive Easement may be authorized under this Article provided that any such combination, at a minimum, be for all or substantially all of the surface and air rights of the Site; and/or
- q) To allow that any Comprehensive Easement or fee under this Article to include:
 - i) the portions of the Charles River that are recorded as part of the 22 Pleasant Street lot; and
 - ii) any and/or all above ground, surface and/or subsurface utilities serving or accessible to 22 Pleasant Street; and
 - iii) any and/or all rights of 22 Pleasant St on, of and/or to lands, flow lands, dam access and repair, submerged lands and or all other real property interests and rights located to the west of Pleasant Street.

Further, to authorize the Board of Selectmen and other applicable boards, commissions, and personnel to apply for and receive grants or gifts for the purposes of this Article and to take all action necessary or appropriate to accomplish the purposes of this Article; and/or

And further provided that the Town may vote to increase the previous appropriation and/or borrowing authorization; and/or otherwise raise, and/or transfer from available funds, or appropriate from Stabilization Funds; for the acquisition by purchase or taking by eminent domain of fee, or Comprehensive Easement, or combination thereof, and/or to see what sums the Town will appropriate, raise or transfer from available funds for due diligence regarding the Site; and

And further provided that under this warrant article:

The term “substantially all” under this Article shall have a meaning of more than 80% of the total of surface rights (including associated air rights), and that surface rights include above ground improvements areas providing, for purposes of clarity, that where the Selectmen agree or the owner provides that the building may be removed, that then the footprint area of the building or any portion so removed will count as part of surface rights (including associated air rights); and

The term “substantially all” under this Article can exclude areas of contamination below the surface or below the bed in the Charles River bed and may exclude identified areas of surface or building contamination that are not remediated by the owner or other party; and

Any such surface areas or building areas so excluded shall first be deducted from 100% for the purposes of measuring 80%; and

Any further exclusions, which are not for reasons of environmental contamination, may not result in less than “more than 80%” of the total overall surface rights and building footprint areas being acquired; and

Any easement or fee acquisition or combination thereof for only driveways and/or streets to access the Hunnewell Park is not permitted under this Article; and

The term “substantially all” under this Article cannot be used to reduce the acquisition under this Article to the sum of driveway or street access to Hunnewell Park plus de minimis additional land area or rights;

Or otherwise act thereon.

ARTICLE 27
Real Estate Transfer Surcharge In Support of Affordable Housing
(Natick Affordable Housing Trust Fund)

To determine whether the Town will authorize the Board of Selectmen to petition the General Court for special legislation that would impose a real estate transfer fee to be used by the Natick Affordable Housing Trust for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town, or take any other action relative thereto.

ARTICLE 28
Land Area of the Town and its Makeup
(Julian Munnich et al)

To see whether the Town will vote to establish a study committee of Town Meeting, appointed by the Moderator, to address, research, study, analyze, and recommend action regarding: The true gross land area of the Town and its makeup by statutory, regulatory, and ownership components; including but not limited to the total land area zoned for residential, commercial or industrial use as pertains to MGL c.40B §§ 20-23, 760 CMR 56 and/or related guidelines issued by DHCD or any office of the Commonwealth or established in any legal proceeding; and, without limitation:

- 1) To establish the number and/or qualifications of committee members to be appointed;
- 2) To establish the charge of said committee including, but not limited to:
 - Identify any and all components of the calculation and all individual parcels or acreage owned by the United States; the Commonwealth; or any political subdivision thereof; the Department of Conservation and Recreation or any state public authority; or where all residential, commercial, and industrial development has been prohibited by deed, decree, zoning or restrictive order of the Department of Environmental Protection pursuant to M.G.L. c. 131, § 40A; or is dedicated to conservation or open space whether under control or ownership by trusts, corporations, partnerships, private parties, or otherwise; or is contained in the Subsidized Housing Inventory; and the size of all bodies of water located within Natick;
 - Gather any other information necessary to analyze, evaluate, and calculate the Town’s position relative to sites potentially comprising one and one half per cent or more of the total land area zoned for residential, commercial, or industrial use.
 - Identify and recommend any zoning changes or other actions that might strengthen or improve the Town’s position relative to meeting or exceeding any statutory or regulatory tests and criteria;

- Report its findings and recommendations to 2020 Spring Annual Town Meeting or such other date as Town Meeting shall establish provided, however, that this shall not preclude any preliminary or earlier report(s) to Town boards, committees, commissions, or to Town Meeting;
- 3) To authorize said committee to develop a database of properties to be included in and/or excluded from either the numerator or the denominator of any statutory calculation;
- 4) To provide that said committee shall have access to Town Counsel and to Town staff, including but not limited to the Community and Economic Development, DPW (GIS), and Finance (Assessors) divisions and may utilize the services of outside consultants;
- 5) To provide for a method to engage any such outside consultant or other vendor including, without limitation, a reserve fund transfer by the Finance Committee;
- 6) To see what sum of money the Town will appropriate to accomplish the purpose of said committee;
- 7) To set the term of said study committee to expire upon the dissolution of 2020 Spring Annual Town Meeting or such other date as Town Meeting shall establish unless otherwise extended by Town Meeting;
- 8) Said committee, being a multiple member body under the Town Charter, is authorized to sponsor warrant articles for any Annual or Special Town Meeting Warrant;

or otherwise act thereon.

ARTICLE 29

Adjust Housing Density and Residential Parking Regulations in the Downtown Mixed-Use District (Ganesh Ramachandran et al)

To see if the Town will vote to amend the Town of Natick Zoning Bylaws to adjust the density of housing permitted and residential parking required in the Downtown Mixed-Use District, to help achieve the following goals:

1. Encourage a mix of housing types and sizes, at a range of affordable price points;
2. Increase housing options for single-person households, empty-nester couples, veterans, people with disabilities, and long-term Natick residents who seek to downsize while remaining in Natick;
3. Encourage car-free, or minimal car ownership households proximate to the Natick Center Commuter Rail station, to reduce new demands on traffic and parking;
4. Support new businesses that enliven Natick Center and provide desirable restaurant and retail alternatives for residents and visitors.

Or otherwise act thereon.

ARTICLE 30

Amend Zoning By-laws: Creative Production Use Zoning Amendment (Planning Board)

To see if the Town will vote to amend the Zoning Bylaws to:

- 1) Add definitions for “Creative Production “to Article I, Section 200 of the Town of Natick Zoning Bylaw;
- 2) To determine which zoning district(s) such uses may be permitted By-Right or by Special Permit;

- 3) To determine intensity, dimensional and other regulations for such uses as may be permitted by right or by special permit and
- 4) To determine off-street parking standards and regulations for such uses as may be permitted By Right or by Special Permit;

or otherwise act thereon.

ARTICLE 31
Amend Zoning Bylaws: Specialty Craft Fabrication Zoning Amendment
(Planning Board)

To see if the Town will vote to amend the Zoning Bylaws to:

- 1) Add definitions for “Specialty Craft Fabrication”;
- 2) To determine which zoning district(s) such uses may be permitted By-Right or By Special Permit;
- 3) To determine intensity, dimensional and other regulations for such uses as may be permitted by right or by special permit and
- 4) To determine off-street parking standards and regulations for such uses as may be permitted By-Right or by Special Permit;

or otherwise act thereon.

ARTICLE 32
Amend Zoning By-Laws: Downtown Business (DB) District Zoning Amendment
(Planning Board)

To see if the Town will vote to amend the Town of Natick Zoning By-Laws by:

- A. Establishing, creating or defining a new Section III-EE Downtown Business District (DB) after Section III-E as follows, including but not limited to:

1. Purpose and intent;
2. Use regulations for DB districts;
3. Dimensional and density requirements;
4. Procedures;
5. Design review board;

- B. Amending Section V-D OFF STREET PARKING AND LOADING REQUIREMENTS to define off-street parking standards for DB districts;

or otherwise act thereon.

ARTICLE 33
Amend Zoning By-Laws: Non-Conforming Uses, Large Residential Additions Zoning Amendment
(Planning Board)

To see if the Town will vote to amend the Zoning By-laws to amend Section V-A (4), Nonconforming Uses, by:

1. Amending, modifying or adding, without limitation, to Section 200 Definitions for “Large Additions, Residential”;
 2. Adding, without limitation, provision(s) for regulating alteration, addition or demolition/reconstruction activity yielding “large additions” on nonconforming single and two-family dwellings;
 3. Amending, modifying, or adding to Section VI – E – Board of Appeals, Special Permits;
- or otherwise act thereon.

ARTICLE 34
Amend Zoning By-Laws: Alternate Uses In Residential Districts Zoning Amendment

(Planning Board)

To see whether the Town will amend Natick Zoning Bylaw Section V Special Requirements, to restrict non-residential uses in the setbacks of residential lots, or otherwise act thereon

ARTICLE 35

**Amend Zoning Bylaw – Retail Marijuana Overlay Districts
(Planning Board)**

To see if the Town will vote to amend the Town of Natick Zoning Bylaws as follows:
To correct and revise the properties previously designated for inclusion in Retail Marijuana Overlay Districts as voted by Town Meeting under 2018 Special Town Meeting #2, Article 2; or otherwise act thereon.

ARTICLE 36

**Amend Article 2 Section 10-c of the Charter
(Town Meeting Practices and Rules Committee)**

To see what action the Town will take to amend Article 2 Section 10-c of the Charter

- 1) To provide that residents or taxpayers who are not Town Meeting members have the right, subject to rules adopted from time to time, to speak but not to make motions or vote and /or
- 2) To otherwise make rights and restrictions in Article 2 Section 10-c consistent with Article 2 Section 10 b and/or
- 3) To provide a definition within the Charter and/or for the purposes of and/or within Article 2 Section 10 c of “taxpayers” for example but not limited to that taxpayers shall mean ‘taxpayers owning real property interests and/or personal property subject to valuation and assessment by the Town Assessor and payment to the Town Treasurer Collector’ or other definition and/or
- 4) otherwise act thereon.

ARTICLE 37

**Report from Town Meeting Practices and Rules Committees
(Town Meeting Practices and Rules Committee)**

To see what action the Town will take to hear and to discuss a report of the Town Meeting Practices and Rules Committee created by 2019 Spring Annual Town Meeting under Article 13 and /or

See what sums of money the town will appropriate, raise or transfer from available funds to provide for copies of a draft revised Town Meeting Member Handbook to be prepared for Spring Annual 2020 Town Meeting

or otherwise act thereon.

ARTICLE 38

**Amend the Town of Natick By-Laws: Create New Standing Committee
(Town Meeting Practices and Rules Committee)**

To see what action the Town will take to amend the Town of Natick By-Laws (“the By-Laws”), consistent with and pursuant to Article 2, Section 11(e) of the Town of Natick Home Rule Charter (“Committees”), the Massachusetts General Laws, Chapter 39 §16, or any other authority, to add a new and/or to amend any existing Article(s) or Section(s) of the By-Laws, including without limitation:

- i) to create a standing committee, appointed by the Moderator, for the primary purpose of considering and making recommendations on all zoning warrant articles, motions and related zoning matters and reporting thereon in print to all Town Meeting Members and to set the

- number of days in advance of Town Meeting action for such report except where compliance with this provision would defeat the purpose of a Special Town Meeting; and/or
- ii) to determine the name, size and composition of such standing committee and to specify the eligibility, term and/or qualifications of the committee and for an individual to be a member of such committee provided however that no person holding an elective town office except Town Meeting member or constable shall be eligible to serve on said committee and to determine whether those serving on appointed committees or boards that have responsibility for issuing permits, approving expenditure of funds or exercising final authority over any matter shall be eligible to serve on said committee; and/or
 - iii) to allow such standing committee, in connection with its work, to conduct studies and analyses of the Town for the purpose of providing information and reports to Town Meeting and the Town on zoning, land use and related matters; and/or
 - iv) to provide that such committee, in connection with its work, have access to Town Counsel whether such provision is made in a new by law article or section of the By-Laws or within Article 22 – Town Counsel, Section 5 (c) of the By-Laws; and/or
 - v) to specify any other powers, duties or responsibilities of such committee; and/or
 - vi) to modify the duties of the Finance Committee under By-Law Article 23, Section 4 regarding consideration, reporting and recommending on all matters of business within the articles of any warrant where a standing committee has been created by Town Meeting pursuant to Article 2, Section 11(e) of the Charter and said standing committee is given primary or required advisory committee responsibility to study, review, recommend and reporting advance of Town Meeting on certain or particular types or categories of subject matter of warrant articles that otherwise would have been the required responsibility of the Finance Committee, and/or
 - vii) to permit the Finance Committee to consider such categories or types of matters of business at its discretion and/or
 - viii) to require the Finance Committee to consider such categories or types of subject matter of business if directed to do so by the Moderator regarding a particular warrant article of any town meeting and/or
 - ix) to modify or to add other reporting requirements and elements to the report of the Finance Committee for the benefit of Town Meeting and the public and/or
- or otherwise act thereon.

ARTICLE 39

Amend the Town of Natick General Bylaws and Zoning Bylaws to change references to the Board of Selectmen to the Select Board, and to change references to Chairman to Chair (Jennifer Paige Adams et al)

To see if the Town will vote to amend the Town of Natick General Bylaws and Zoning Bylaws to change references to the Board of Selectmen to the Select Board, and to change references to Chairman to Chair, or otherwise act thereon

ARTICLE 40

Amend the Town of Natick Home Rule Charter to change references to the Board of Selectmen to the Select Board, and to change references to Chairman to Chair (Jennifer Paige Adams et al)

To see if the Town will vote to amend the Town of Natick Home Rule Charter to change references to the Board of Selectmen to the Select Board, and to change references to Chairman to Chair, or otherwise act thereon.

ARTICLE 41

Contact Information Requirement for Town Meeting Members and Elected Officials (Patricia Sciarra, et al)

To see if the Town will vote to request Town Meeting Members and Elected Town Officials to provide contact information to the Town Clerk that creates reasonable accessibility to its constituents, to members of Town Agencies, to appointed and elected officials. Reasonable access means ability to make contact in 48 hours or less.

ARTICLE 42
Feasibility Study for Increasing Parking Spaces for Morse Institute Library
(Saul Beaumont et al)

To see what sum of money the Town will vote to raise and appropriate, or otherwise provide, for a study to determine the feasibility of increasing the amount of Morse Institute Library parking places. The study of the area around the library including Clarendon Street is to determine the feasibility and cost for the following items, including but not limited to:

1. increase the safety of using library parking to avoid crossing a public street
2. bring the disabled parking spaces closer to the library to avoid crossing a public street
3. increase the quantity of parking spaces available to the public to better support the library usage of more than a thousand users per day

or any other criteria otherwise necessary to fulfill the objectives of the feasibility study. Or take any further action with respect thereto.

ARTICLE 43
Annual Appropriation to Subsidize the Operation of the Lincoln Café at the Community-Senior Center
(Jerry L. Pierce, Judy D’Antonio et al)

To see if the Town will vote to appropriate an annual amount of \$10,000 to help subsidize the cost to continue to operate the Lincoln Café at the Community-Senior Center enabling us to continue to provide a healthy lunch at affordable prices for Senior Citizens of Natick which also provides them the opportunity to enjoy socialization with other Seniors with like interests; or otherwise act thereon.

ARTICLE 44
Rezone Properties Known as 1075 & 1085 Worcester Street from Industrial II to Highway Mixed Use I
(Paul McKeon et al)

To see if the Town will vote to amend the Zoning Bylaws and Map with regards to:

- 1) replace the Industrial II (INII) zoning district with the Highway Mixed Use I (HMI) on certain lots;
- 2) Amend the Section III-B (3), (4), and (5) regarding Large Parcels – lower minimum parcel threshold for large parcels from 200,000 square feet;

The above articles are to be acted upon and determined exclusively by Town Meeting Members in accordance with Chapter 2 of the Acts of 1938 and Amendments thereto and the Town Charter and subject to the referendum provided thereby.

You are directed to serve this Warrant by causing an attested copy of said Warrant to be posted in the Post Office in said Natick; and at the following public places in said Natick, to wit: Precinct 1, Reliable Cleaners, 214 West Central Street; Precinct 2, Cole Recreation Center, 179 Boden Lane; Precinct 3, Kennedy Middle School, 165 Mill St.; Precinct 4, Lola’s, 9 Main Street; Precinct 5, Wilson Middle School, 22 Rutledge Road; Precinct 6, East Natick Fire Station, 2 Rhode Island Avenue; Precinct 7, Lilja Elementary School, 41 Bacon Street; Precinct 8, Natick High School, 15

West Street; Precinct 9, Community Senior Center, 117 East Central Street and Precinct 10, Memorial Elementary School, 107 Eliot Street.

Above locations being at least one public place in each Precinct, in the Town of Natick, and also posted in the Natick U.S. Post Office, Town Hall, Bacon Free Library and Morse Institute Library seven days at least before October 15, 2019 also by causing the titles of the articles on the Warrant for the 2019 Fall Annual Town Meeting to be published once in the Newspaper called "The MetroWest Daily News," with notice of availability of an attested copy of said Warrant, said Newspaper published in the Town of Natick and said publication to be August 23, 2019.

Hereof fail not and make due return of this Warrant with your doings thereon to the Town Clerk at or before the time appointed for holding said meeting.

Given under our hands this, 19th Day of August 2019.

MICHAEL J. HICKEY, JR
Chair

SUSAN G. SALAMOFF
Vice Chair

JONATHAN H. FREEDMAN
Clerk

RICHARD P. JENNETT, JR
Member

KAREN ADELMAN-FOSTER
Member

Board of Selectmen for the Town of Natick

Certified copies of the Warrant are available at the Office of the Town Clerk, Natick Town Hall, 13 East Central St., Natick, MA between the hours of 8:00 a.m. – 5:00 p.m., Monday through Wednesday; 8:00 a.m.-7:00 p.m. on Thursday and 8:00 a.m.-12:30 p.m. Friday; the Warrant may also be accessed from the Town web site www.natickma.gov.

MOTION: ARTICLE 14 Increase Gross Receipts for Eligibility for Property Tax Deferral Program
 (Board of Selectmen)

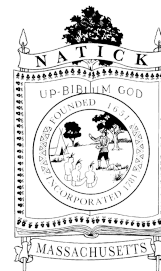
Move that the Town will vote to increase the gross receipts that seniors may have in the prior calendar year to be eligible to defer property taxes under G.L. c. 59§ 5, Clause 41A from \$56,000 to the maximum amount of income determined by the commissioner of revenue for the purposes of the senior circuit breaker tax credit, subsection (k) of Section 6 of Chapter 62, for a single person who is not a head of household. Such increase to be effective for deferrals granted for taxes assessed for any fiscal year beginning on or after July 1, 2019; or otherwise act thereon.

September 12, 2019

Prepared by:

Jillian Wilson Martin, Sustainability Coordinator

Marianne Iarossi, Conservation Agent



2019 Fall Town Meeting, Article 19 Responses to Finance Committee Questionnaire

1: Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.

Please see attached Appendix I for the motion. In summary, the motion proposes the following significant changes to Article 79A in the Town of Natick's General Bylaw: revisions to permit thresholds, clarifications and additions to exempt activities and the addition of a low impact development plan to the types of plans the Conservation Commission may require from applicants. Additional detail on each of these changes is provided below.

Minor edits are also proposed throughout the By-Law to resolve inaccuracies with existing language (e.g., reference the MA Stormwater Standards instead of the currently referenced MA Stormwater Policy, which is not the official name) and to capitalize defined terms.

While much of the language in the existing Article 79A would remain, codifying the proposed changes throughout the document require edits to every section, and Town Counsel recommends a "delete and replace" motion due to the complexity of the edits proposed.

Summary of Proposed Changes

1. Permit Thresholds

The current By-Law requires a Land Disturbance Permit only if 40,000 sq ft of land is disturbed. As such, the Conservation Commission only reviews a handful of Land Disturbance permits each year.

The proposed motion changes the thresholds required to apply for a permit and replaces the Land Disturbance Permit with two new permits:

- Minor Stormwater and Erosion Control Permit

This permit is for projects that meet one or more of the following criteria:

Result in a Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.

The construction of a new drainage facility or the alteration of an existing drainage facility greater than 3,000 square feet, but not exceeding 20,000 square feet.

The addition, on-site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.

Minor permits would be reviewed and approved by the Conservation Commission's Designated Agent, and would not be subject to a public hearing. If the applicant disagreed with the Agent's decision, he/she would have the opportunity to appeal a permit denial to the Conservation Commission in a public hearing.

For perspective, 3,000 square feet of land disturbance is typical for the construction of a new house, but extremely unusual for an addition. As such, staff estimate the addition of this permit would result in approximately 30 Minor Stormwater and Erosion Control Permit applications each year.

- Major Stormwater and Erosion Control Permit

This permit is for projects that exceed the criteria defined for Minor Permits. Projects that are subject to a Major Permit would follow a similar process as projects subject to the current By-Law. The Conservation Commission would be responsible for reviewing the application and making a decision, in conjunction with a public hearing. Because the proposed changes to the By-Law exempt projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions, the expectation is that this motion will result in very few additional Major Permits.

2. Clarity and Addition of Exempt Activities

The proposed By-Law would require best management practices (BMPs) are followed for all projects and add exemptions for:

- The reconstruction of a single family home within the current building footprint
- Logging in accordance with Dept of Conservation and Recreation Forest Cutting Plans
- Repair or replacement of damaged roofs
- The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

3. Addition of Low Impact Development Plan

The motion proposes the addition of a Low Impact Development (LID) Plan to the list of plans the Conservation Commission may require from an applicant. This provides applicants the flexibility to incorporate LID techniques into their design and to use nature-based solutions to comply with the Commission's regulation of this By-Law.

2. At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?

While a more detailed list of the By-Law's purpose and objectives are provided in the motion (see Appendix I), our ultimate objectives are to protect local water resources and reduce flooding.

3. Has this article or one of a very similar scope and substance been on a previous Warrant Article and what has been the actions taken by the Finance Committee, other Boards or Committees and Town Meeting?

The Town has an existing Stormwater and Erosion Control By-Law (Article 79A of the General Bylaw) that we seek to revise. Article 79A was unanimously recommended by the Finance Committee to Town Meeting and was approved at the 2006 Spring Annual Town Meeting.

Other Boards, including the Conservation Commission, the Stormwater Advisory Committee and the Board of Selectmen, and Town staff with stormwater expertise, including the Director of Public Works, Town Engineer, the Conservation Agent, Senior Planner of Community and Economic Development, and the Director of Health have reviewed the proposed changes and recommend their adoption.

4. Why is it required for the Town of Natick and for the Town Agency sponsor(s)?

The cumulative impact of development in Natick, as currently regulated, is having a negative effect on local water bodies and our community's resilience.

Nearly every water body in Natick is categorized as impaired by the [Massachusetts Year 2016 Integrated List of Waters](#) (a publication prepared by MassDEP related to the Clean Water Act). The main source of pollution to these water bodies is stormwater, which flows directly into our lakes and rivers, untreated.

Without proper regulation, development will typically result in an increase in impervious surface, which results in an increase in stormwater runoff and higher stormwater peak flows. This can cause the transport of runoff containing phosphorus, pesticides, bacteria and chemicals from driveways into catch basins and straight into our waters. Coupled with rising levels of precipitation and the more frequent occurrence of high rainfall events, these higher stormwater peak flows can also increase area flooding.

At present, the Town of Natick, as led by the Conservation Commission, only regulates large development projects - those requiring more than 40,000 sq ft of land disturbance - for stormwater impacts. However, in a community that is largely built out, few projects meet that threshold, and, since Article 79A went into effect in 2006, less than 50 projects have required the Conservation Commission's review.

Indeed, as shown in Appendix II, only 10% of private parcels located in Natick are more than 40,000 sq ft in size, meaning 90% of parcels are not subject to the Conservation Commission's stormwater regulations. A more meaningful summary of this challenge becomes clear when parcels are categorized by their 'stormwater watershed' or the water body the nearest catch basin drains into (see Appendix III). An analysis of Dug Pond, home to the Town's only public beach, finds that only 3% of private properties

have the minimum space required to potentially meet Article 79A's threshold. The takeaway? Natick's current regulations do not effectively protect Dug Pond, Lake Cochituate, the Charles River and our other local water bodies and lower thresholds are needed.

Updating our stormwater regulations to include a threshold that is more in line with our level of development is also consistent with the approach other communities are taking. A review of area stormwater bylaws found that every community treats stormwater differently. However, a correlation exists between land disturbance thresholds and a community's level of development, as illustrated in the below table.

Community	Level of Development	Land Disturbance Threshold
Charlton	Low	43,560 sq ft
Franklin	Low	40,000 sq ft
Holliston	Low/Medium	10,000 sq ft
Hopkinton	Low	10,000 sq ft
Burlington	Medium	10,000 sq ft
Acton	Low/Medium	5,000 sq ft
Dedham	Medium	500 sq ft
Newton	High	400 sq ft

Given Natick's highly developed nature, it makes sense for the Town to adopt regulations that optimize the Conservation Commission's ability to regulate projects that result in a significant disturbance of land (e.g., the clearing of land for the construction of a new home) and take a more comprehensive and thoughtful approach to managing stormwater impacts. This is in line with communities that are similar to Natick in size and level of development.

The proposed changes will also update Natick's regulations to reflect changing Federal regulations, such as the new Municipal Separate Storm Sewer System (MS4) permit, and will encourage the adoption of Low Impact Development (LID) techniques by providing a pathway to increase infiltration via nature-based solutions.

5. Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?

The article does not require funding and it is not expected to result in a need for additional staff.

6. Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions? Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?

Yes, this article would extend prior action of Town Meeting in that it would amend an existing Town of Natick General By-Law, Article 79A, adopted in 2006.

7. How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?

The proposed changes are in response to recommendations identified in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report. The changes also address the requirements of the new Municipal Separate Storm Sewer System (MS4) permit.

The proposed changes are not expected to have a significant impact on Natick's financials, however, they will result in additional permits and their associated fees. The Conservation Commission will establish the fee for relevant permits via the regulations it adopts to effectuate the purpose of this By-Law.

8. Who are the critical participants in executing the effort envisioned by the article motion?

Ultimately, the Conservation Commission and Conservation Agent are the most critical participants in executing the effort envisioned, and they are in favor of this article.

9. What steps and communication has the sponsor attempted to assure that:

- **Interested parties were notified in a timely way and had a chance to participate in the process**
- **Appropriate Town Boards & Committees were consulted**
- **Required public hearings were held**

Each of the below Boards/individuals has reviewed and expressed their support for the proposed changes. Many have been active participants in the crafting of this motion. Other external stakeholders, including Mass Audubon's Shaping the Future of Your Community program, MassDEP, and the Environmental Partners, Natick's MS4 consultant were provided with a draft of proposed changes and their feedback was incorporated.

- Conservation Commission
- Board of Selectmen
- Conservation Agent, Marianne Iarossi and former Conservation Agent, Victoria Parsons
- Senior Planner, Community & Economic Development, Ted Fields

- Building Commissioner, David Gusimini
- Director of Public Health, James White
- Director of Public Works, Jeremy Marsette, P.E.
- Town Engineer, William McDowell, P.E.

Members of the public were made aware of the Town's intent to pursue changes to the existing Stormwater By-Law, Article 79A, at the Planning Board's meeting on May 22, 2019 and at the Board of Selectmen's August 5, 2019 meeting. Following that meeting, Town staff were contacted by a local developer to discuss proposed changes, which were viewed as favorable by the developer.

10. Since submitting the article have you identified issues that weren't initially considered in the development of the proposal?

No.

11. If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?

Natick will be at risk of further polluting local water bodies and flooding.

APPENDIX I

2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws:
Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

- (1) Delete Sections 1 through Section 16, as follows, in their entirety:

“Section 1 Purpose

A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. erosion of stream channels;
4. alteration or destruction of aquatic and wildlife habitat;
5. flooding; and,
6. overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources.

Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

1. protect water resources;
2. require practices that eliminate soil erosion and sedimentation;
3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. protect groundwater and surface water from degradation;
6. promote infiltration and the recharge of groundwater;
7. maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
8. prevent pollutants from entering the municipal storm drain system;
9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;

10. ensure adequate long-term operation and maintenance of structural stormwater best management practices;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any "person" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or agents designated to enforce this By-Law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity of or improve the quality of stormwater runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A Registered Professional Engineer or other trained professional selected by the Conservation Commission and retained by the holder of a Minor Land Disturbance Permit or a Full Land Disturbance Permit to periodically inspect the work and report to the Conservation Commission.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying

stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Natick.

OPERATION AND MAINTENANCE PLAN: A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERMITTEE: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source that is considered toxic or detrimental to humans or the environment and may be introduced into the municipal storm drain system or into any water, watercourse or waters of the Commonwealth.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESPONSIBLE PARTIES: owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TSS: Total Suspended Solids. Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, stream, underground stream, pond or lake.

WETLAND RESOURCE AREA: Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Natick Wetland Protection By-law.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp are defined in M.G.L. Chapter 131, Section 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended.

Section 4 Applicability

This By-Law shall apply to all land-disturbing activities within the jurisdiction of the Town of Natick. Except as permitted by the Conservation Commission, or as otherwise provided in this By-Law, no person shall perform any activity that results in land disturbance of 40,000 square feet or more.

A. Regulated Activities - Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 40,000 square feet, associated with construction or reconstruction of structures.
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land,
3. Paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,
5. Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. Construction or reconstruction of structures where more than 40,000 square feet of roof drainage is altered.

B. Erosion and Sedimentation Control Requirement - A project which includes land disturbance of less than 40,000 s.f. shall be considered to be in conformance with this By-Law if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the By-Law.

C. Exempt Activities - The following activities are exempt from the requirements of this By-Law:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act.
2. Repair of septic systems when required by the Board of Health for the protection of public health and compliance with Section 4, Paragraph B.
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.

4. The construction of fencing that will not alter existing terrain or drainage patterns.
5. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
6. Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.

Section 5 Administration

The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law may be delegated in writing by the Conservation Commission to its employees or agents.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 40,000 or more square feet of land. The site owner or his agent shall apply for the permit with the Conservation Commission. While application may be made by a representative, the permittee must be the owner of the site.

A. **Applications** - An application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the Regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees.

B. **Fees** - Fees shall be established by Conservation Commission to cover expenses connected with public notice, application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Land Disturbance Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44§53G.

C. **Information Requests** - The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

E. **Coordination with Other Boards** - On receipt of a complete application for a Land Disturbance Permit the Conservation Commission shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, and the Building Inspector for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation

Commission. The Conservation Commission shall not hold a hearing on the Land Disturbance Permit until it has received reports from said agencies or until said agencies have allowed twenty (20) days to elapse after receipt of the application materials without submission of a report thereon.

F. **Entry** - Filing an application for a land disturbance permit grants the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) days of receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, and by posting. The Conservation Commission shall be responsible for publishing the notice in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Natick Conservation Office.

H. **Action** - The Conservation Commission may:

1. **Approve** the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this By-Law;
2. **Approve the Application and issue a permit with conditions**, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this By-Law; or
3. **Disapprove** the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this By-Law. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. **Project Changes** - The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by-law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

Section 8 Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed in the Regulations adopted by the Conservation Commission for administration of this By-Law.

Section 9 Stormwater Management Plan

The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this By-Law.

Section 10 Operation and Maintenance Plans

A. **An Operation and Maintenance Plan** - (O&M Plan) for the permanent storm water management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the South Middlesex Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Conservation Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

B. Changes to Operation and Maintenance Plans

1. The owner(s) of the stormwater management system must notify the Conservation Commission or its agent of changes in ownership or assignment of financial responsibility.
2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the Conservation Commission shall file it at the Registry of Deeds at the expense of the current owner(s).

Section 11 Inspection and Site Supervision

A. **Preconstruction Meeting** - Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Conservation Commission or its designated agent to review the permitted plans and proposed implementation.

B. **Commission Inspection** - The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Agent of the Conservation Commission at least three (3) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Rough Grading has been substantially completed;
3. Final Grading has been substantially completed;
4. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
5. Close of the Construction Season; and
6. Final landscaping (permanent stabilization) and project final completion.

C. **Permittee Inspections** - The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 12 Surety

The Conservation Commission may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed

in compliance with the permit but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 13 and issued a certificate of completion.

Section 13 Final Reports

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.) or Registered Professional Land Surveyor certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

Section 14 Enforcement

A. The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

1. The Conservation Commission or an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include:

- a. a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit;
- b. maintenance, installation or performance of additional erosion and sedimentation control measures;
- c. monitoring, analyses, and reporting;
- d. remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of

said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

C. **Criminal Penalty** - Any person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 300.00 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 15 Certificate of Completion

The Conservation Commission will issue a Certificate of Completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Completion shall be recorded at the Registry of Deeds by the Owner(s).

Section 16 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.”

(2) Insert the following text in its entirety:

“Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;
- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: change from distributed Runoff to confined, discrete discharge;

change in the volume of Runoff from the area; change in the peak rate of Runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act (found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

(a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.

- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
 - (c) The addition, on-Site redistribution or export of greater than or equal to 500 cubic yards, but not exceeding 750 cubic yards, of Soil.
- 2) Major Stormwater and Erosion Control Permit
- (a) Any Land Disturbance greater than 20,000 square feet.
 - (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
 - (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. **Exempt Activities** - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.
- 5) Repair of septic systems when required by the Board of Health.
- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.

- (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
- (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. Applications - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. Fees - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision..

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – The applicant shall distribute one copy each to the Department of Public Works and the Board of Health for review and comment. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above. The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. **Action and Appeal Process**

1) **Minor Stormwater and Erosion Control Permit**

(a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:

- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
- ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
- iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
- iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

(b) Appeal of Disapproved Applications

- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
- ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:

- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
- ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
- iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or
- iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements may be

specified by the Conservation Commission or Designated Agent and this By-Law; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings, and narrative and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS). The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements

shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) Changes to Operation and Maintenance Plans

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. **Inspection** – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. In order to obtain inspections, the Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. **Permittee Inspections** - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit monthly reports to the Conservation Commission or Designated Agent in a format approved by the Conservation Commission. The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.

- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.
- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

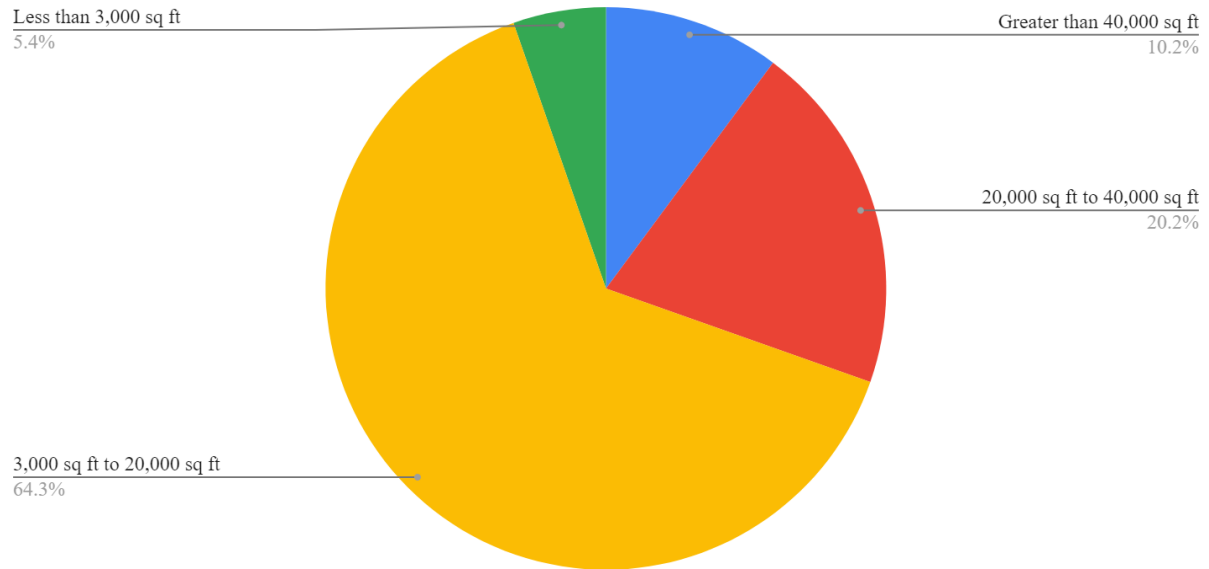
Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect.”

APPENDIX II

Analysis of Private Parcels in Natick, by Size



APPENDIX III

Analysis of Private Parcels in Natick by Receiving Waterbody

Receiving Waterbody	Total Parcels	Parcels > 40KSq Ft	Parcels 20- 40K sq ft	Parcels 3- 20K sq ft	Parcels <3K sq ft
Beaverdam Brook	1398	52	118	1146	81
Charles River (southeast corner of Town)	678	361	108	183	25
Course Brook	408	18	62	313	15
Davis Brook	738	440	153	131	14
Dug Pond	1039	29	89	848	72
Fiske Pond	113	12	21	74	5
Indian Brook	179	110	32	33	3
Jennings Pond	237	3	8	214	10
Lake Cochituate	2670	130	348	1970	221
Morses Pond	464	20	93	336	15
Nonesuch Pond	458	99	173	150	35
Unnamed Branch to the Charles River	275	45	132	89	7
Unnamed Tributary to Jennings Pond	1614	87	268	1206	28
Unnamed Tributary to the Sudbury River	204	49	26	123	6



Patricia O'Neil <poneil@natickma.org>

Fwd: Follow Up on Article 19

5 messages

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From: Jillian Wilson-Martin <jwmartin@natickma.org>

Date: Tue, Sep 24, 2019 at 2:28 PM

Subject: Follow Up on Article 19

To: Patrick Hayes <phayes.fincom@natickma.org>

Cc: Michael Hickey <mhickey@natickma.org>, Matthew Gardner <matthew.gardner@sustainserv.com>, Marianne Iarossi <miarossi@natickma.org>, Karis North <knorth@mhtl.com>

Dear Patrick,

Thank you to you and your Committee for your review of the proposed motion for Article 19.

During last week's hearing, a few questions came up that we have responded to below. We have also attached the following to this email:

- A revised motion based on feedback from Fin Com (two versions are attached, one in track changes from the last version and one clean version)
- A "compare changes" document that was prepared using the existing By-Law and the revised motion, as requested
- Our original responses to the Fin Com questionnaire as provided on 9/12
- A photo of myself with a dump truck (more detail below!)

Please note the revised motion has been reviewed by Town Counsel, the Chair of the Conservation Commission, the Town Engineer and Mass DEP's Stormwater Coordinator.

To-date, we have not received any additional questions from the Finance Committee regarding Article 19. If possible, given the number of stakeholders involved in drafting this motion, we would greatly appreciate it if the Committee could send any additional questions by Friday, 9/27.

I also wanted to flag for you that Matt Gardner, Chair of the Conservation Commission, will be joining us for your meeting on October 1.

Best,
Jillian

Response to Questions on Exempt Activities

Two questions came up regarding Section 4D.2, which exempts reasonable and ordinary lawn maintenance and landscaping activities.

The first question was regarding the height of walls. We agree with Finance Committee member, Mr. Linehan, that the height of a wall should be clarified and have revised our motion to clearly state that walls greater than one foot in height would be exempt.

The second question was regarding the addition of 50 cubic yards of soil. During the meeting, the presumption was that this was a typo and that the figure in Section 4D.2 should read 500 cubic yards of soil. The conversation focused on what happens to projects that move between 51-499 cubic yards of soil. This was a great question and, while this grey area exists in the current By-Law and, in conversations with DEP, it also exists in other communities' Stormwater By-Laws, we agree it would be much cleaner to close the gap.

Upon further reflection, we do not believe exempting up to 500 cubic yards is responsible. As context, 500 cubic yards of soil is the equivalent of filling about 35 of the Town's 10-wheel dump trucks (see attached awkward photo of myself with one of these trucks) or about 60 of the Town's 6-wheel dump trucks.

So what is the right threshold? We investigated a few alternatives and believe 100 cubic yards of soil makes sense and is consistent with other language in the By-Law. (100 cubic yards of soil is the equivalent of filling a 3,000 sq ft area with one foot of soil, which would align with the language in 4D.2 regarding the alteration of existing grades by more than a foot.)

As such, we now recommend 1) changing Section 4D.2 from 50 cubic yards of soil to 100 cubic yards and 2) revising the Minor Permit's soil redistribution threshold from 500 cubic yards to 100 cubic yards. These changes are reflected in the attached revised motion.

Response to Question on Costs to Develop Required Plans

Mr. Linehan also asked what additional costs this By-Law may add to the cost of constructing a new, single family home, given the potential need to hire a professional engineer to develop necessary plans. While the Conservation Commission's regulations will ultimately define which plans are necessary for which project, it is reasonable to anticipate a Minor Permit associated with the construction of a new home would require an Erosion and Sedimentation Control Plan. Since speaking with you, we confirmed that the Building Department requires stamped plans for the construction of a new home. We spoke with the Town Engineer and he noted that, given a developer of a single family home is already working with a Professional Engineer, that the development of an Erosion and Sedimentation Control plan would add minimal costs. If an Erosion and Sedimentation Control plan was required by a project that did not already have a PE on board (e.g., the clearing of 3,000 sq ft of land for no development purpose), he estimated that the cost of hiring a professional engineer for this purpose could range from \$1,000-\$3,000.

At their meeting on 9/19, the Conservation Commission confirmed their goal is not to place an unnecessary burden on small residential projects. As such, in both response to Mr. Linehan's question and to provide greater flexibility within the By-Law, we propose revising the motion (as shown in the attached) to clarify that both plan preparation requirements and inspection and site supervision requirements will be defined in the By-Law's accompanying regulations.

Jillian Wilson-Martin
Sustainability Coordinator
Town of Natick
[75 West Street](#)



2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws:
Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

Delete Sections 1 through Section 16 in their entirety and replace with the following text in its entirety:

"Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;

- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: change from distributed Runoff to confined, discrete discharge; change in the volume of Runoff from the area; change in the peak rate of Runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and

its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act

(found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (c) The addition, on-Site redistribution or export of greater than or equal to ~~500~~100 cubic yards, but not exceeding 750 cubic yards, of Soil.

2) Major Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
- (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. **Exempt Activities** - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than ~~50~~100 cubic yards of soil material, construction of ~~any~~ walls greater than one foot in height, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.

- 5) Repair of septic systems when required by the Board of Health.
- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.
 - (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
 - (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. **Applications** - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. **Fees** - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision.

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – Applications for Major Stormwater and Erosion Control permits require distribution to the Department of Public Works and the Board of Health as noted in Section 7.A. The applicant shall distribute one copy each to the Department of Public Works and the Board of Health for review and comment. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above.

The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. Action and Appeal Process

1) Minor Stormwater and Erosion Control Permit

- (a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:
- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
 - iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.
- (b) **Appeal of Disapproved Applications**
- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
 - ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:
- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to

- ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
- iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or
 - iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

The Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

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Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements, including, but not limited to, circumstances in which plans must be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS), may be specified by the Conservation Commission or Designated Agent ~~and this By-Law~~; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

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A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre-construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings, and narrative ~~and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS)~~. The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings, and narrative ~~and be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (P.L.S.)~~. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. **An Operation and Maintenance Plan - (O&M Plan)** for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) **Changes to Operation and Maintenance Plans**

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

Regulations promulgated by the Conservation Commission for the administration of this By-Law shall set forth the inspection and site supervision requirements required for a Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 9A – 9D.

A. **Pre-Construction Meeting** - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, a pre-construction meeting may be required as specified in the regulations promulgated by the Conservation Commission for the administration of this By-Law. ~~the~~ If required, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. **Inspection** – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. ~~The Conservation Commission or Designated Agent hereinafter required and~~ shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans ~~and any conditions of approval and require any modifications to the work to ensure full compliance with the permit.~~ One copy of the approved plans and conditions of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. ~~In order to obtain inspections, t~~ The Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. **Permittee Inspections** - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures ~~no less than weekly or as specified required in the permit regulations promulgated by the Conservation Commission for the administration of this By-Law,~~ and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit ~~monthly~~ reports to the Conservation Commission or Designated Agent in a frequency and format approved by the Conservation required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. ~~Commission.~~ The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. **Access Permission** - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission or Designated Agent deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.
- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.

- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect."

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And to take all such action necessary and appropriate to accomplish the purposes of this article.

2019 FALL ANNUAL TOWN MEETING

Article 19

Amend Article 79A of the Town of Natick By-Laws: Stormwater Management and Erosion Control

WARRANT

To see if the Town will vote to amend the existing Stormwater and Erosion Control By-Law, as codified in Article 79A of the Natick Town Bylaws, to optimize the Town's regulation of land disturbance activity, for purposes that shall include, but shall not be limited to the following: (1) the protection of local drinking water supply; (2) the reduction of stormwater runoff; (3) compliance with new Municipal Separate Storm Sewer System (MS4) regulations; (4) the preservation of natural resources; and (5) the achievement of recommendations proposed in the 2019 Natick 2030+ Master Plan, 2018 Hazard Mitigation Plan and the 2018 Community Resilience Building Report; or otherwise act thereon.

MOTION:

Move that the Town vote to amend the Natick Town ByLaws, Article 79A "Stormwater Management and Erosion Control By-Law," as follows:

Delete Sections 1 through Section 16 in their entirety and replace with the following text in its entirety:

"Section 1 Purpose

A. Increased volumes of Stormwater, contaminated Runoff from Impervious Surfaces, and Soil Erosion and Sedimentation are major causes of:

- 1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- 2) contamination of drinking water supplies;
- 3) Erosion of stream channels;
- 4) alteration or destruction of aquatic and wildlife habitat;
- 5) flooding; and,
- 6) overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified Sedimentation from Land Disturbance activities and polluted Runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the Disturbance of Land and the creation of Runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this By-Law are to:

- 1) protect water resources;
- 2) require practices that minimize or eliminate Erosion and Sedimentation and maintain Sediment on construction sites;
- 3) control the volume and rate of Stormwater resulting from Land Disturbance Activities in order to minimize potential impacts of flooding;

- 4) require practices to manage and treat Runoff generated from new development and redevelopment, with a preference for Low Impact Development techniques;
- 5) promote infiltration and the recharge of groundwater;
- 6) maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
- 7) ensure that Erosion, Sedimentation, and Runoff are minimized through Site planning, design and implementation;
- 8) ensure adequate long-term operation and maintenance of Best Management Practices;
- 9) require practices to control Construction and Waste Materials that may cause adverse impacts to water quality;
- 10) comply with state and federal statutes and regulations, including the Municipal Separate Storm Sewer System (MS4) Permit, relating to Stormwater discharges; and
- 11) establish the Town of Natick's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

Section 2 Definitions

For the purposes of this By-Law, the following shall mean:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of Runoff flowing from the area. Such changes include: change from distributed Runoff to confined, discrete discharge; change in the volume of Runoff from the area; change in the peak rate of Runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any Person requesting a Stormwater and Erosion Control Permit.

APPLICATION: A standard form for application as issued by the Conservation Commission and any other documentation, which shall include, but shall not be limited to, plans, charts, drawings, specifications, narratives, or any other documents or pieces of information required by applicable federal, state or local laws, rules and/or regulations, submitted in connection with a Stormwater and Erosion Control Permit, as applicable, and as defined in the regulations promulgated by the Conservation Commission in support of this By-Law.

AUTHORIZED ENFORCEMENT AGENCY: Conservation Commission and its employees or Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce the quantity of, or improve the quality of Runoff.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or Site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction Site.

CLEARING: Any activity that removes the vegetative surface cover.

DESIGNATED AGENT: The Conservation Agent or any person or entity designated by the Conservation Commission to assist in the administration, implementation and enforcement of this By-Law and

its regulations. The designation of a person or entity other than the Conservation Agent shall be made in writing upon a majority vote of the Conservation Commission.

DRAINAGE FACILITY: Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage or infiltration.

ENVIRONMENTAL SITE MONITOR: A registered and professional engineer (P.E.) or other trained professional selected by the Conservation Commission and retained by the holder of a Stormwater and Erosion Control Permit to periodically inspect the work and report to the Conservation Commission or Designated Agent, as applicable.

EROSION: The wearing away of the ground surface by natural or artificial forces and the subsequent detachment and transportation of Soil.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of Clearing ground surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying ground. Impervious Surface includes, without limitation, roads, paved parking lots, sidewalks, and rooftops. Impervious Surface also includes Soils, gravel driveways, and similar surfaces with a Runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including, without limitation, Clearing, Grubbing, Grading, digging, cutting, removal of vegetation, excavation, placement of fill, resurfacing and construction that causes a change in the position or location of Soil or a change in the patterns of drainage and/or infiltration of water.

LOW IMPACT DEVELOPMENT (LID): A comprehensive land planning and engineering design strategy that seeks to maintain a Site's pre-development ecological and hydrological function through the protection, enhancement, or mimicry of natural processes. LID systems and practices emphasize reduction of effective imperviousness and conservation and use of existing natural Site features integrated with distributed small-scale Stormwater controls to result in the treatment, infiltration, evapotranspiration, and/or use of Stormwater close to its source.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and the Massachusetts Clean Waters Act M.G.L. c. 21, §§ 23-56, and any successor statutory provision.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying Stormwater, including, without limitation, any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER: A Person with a legal or equitable interest in property.

PERMITTEE: The Person who holds a Stormwater and Erosion Control Permit.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

RESPONSIBLE PARTIES: Owner(s), Persons with financial responsibility, Persons with operational responsibility, or Persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic Soil material that is transported by wind or water, from its origin to another location; the product of Erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing Activities are, were, or will be performed.

SOIL: Any earth, sand, rock, stone, gravel, loam, clay, sod, fill, mineral products, eroded matter or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or slow down Erosion.

STORMWATER: Runoff from precipitation, snowmelt or drainage.

STORMWATER AND EROSION CONTROL PERMIT: A Major Stormwater and Erosion Control Permit or a Minor Stormwater and Erosion Control Permit issued by the Authorized Enforcement Agency, after review and approval of an Application, which is designed to protect the environment of the Town from the effects of uncontrolled and untreated Runoff, as defined in Section 4 herein.

WETLANDS: Freshwater wetland, marsh, bog, wet meadow and swamp as defined in M.G.L. c. 131, §40, the Town of Natick Wetland Protection By-Law, or any successor statutory provision.

Section 3 Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the Federal Clean Water Act

(found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended). No change to the aforementioned regulations should affect the validity of this By-Law.

Section 4 Applicability

A. This By-Law shall apply to any Land-Disturbing Activity within the jurisdiction of the Town, including, but not limited to, any activities that require a permit. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick, and may promulgate and enforce guidelines, regulations and standards relevant thereto.

B. This By-Law shall apply to land or parcels of land held in common ownership (including, but not limited to, ownership by related or jointly-controlled Persons or entities), if the total Land-Disturbing Activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section 4.C and are not exempted by Section 4.D, and no such activity shall commence until a Stormwater and Erosion Control Permit under this By-Law has been issued. Land Disturbing Activities shall not be segmented or phased in a manner to avoid compliance with this By-Law.

C. **Permit Thresholds** - A Stormwater and Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section 4.D:

1) Minor Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 3,000 square feet, but not exceeding 20,000 square feet.
- (c) The addition, on-Site redistribution or export of greater than or equal to 100 cubic yards, but not exceeding 750 cubic yards, of Soil.

2) Major Stormwater and Erosion Control Permit

- (a) Any Land Disturbance greater than 20,000 square feet.
- (b) The construction of a new Drainage Facility or alteration of an existing Drainage Facility greater than 20,000 square feet.
- (c) The addition, on-Site redistribution, or export of more than 750 cubic yards of Soil.

D. **Exempt Activities** - The following activities are exempt from the requirements of this By-Law, provided that appropriate Best Management Practices are used:

- 1) Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act 310 CMR 10.00 and G.L.c. 40A, §3, and any successor regulatory or statutory provision.
- 2) Reasonable and ordinary maintenance of existing lawn, landscaping, or gardens areas, provided such maintenance does not include the addition of more than 100 cubic yards of soil material, construction of walls greater than one foot in height, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
- 3) Repair or replacement of damaged roofs
- 4) Renovation of a single-family dwelling that does not expand beyond the dwelling's existing footprint.
- 5) Repair of septic systems when required by the Board of Health.

- 6) Construction of fencing that will not alter existing terrain or drainage patterns.
- 7) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain, ground cover or drainage patterns.
- 8) Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.
- 9) Any logging that is consistent with a Forest Cutting Plan approved under the Forest Cutting Practices Act by the Massachusetts Department of Conservation and Recreation.
- 10) The maintenance or reconstruction of any public way, in accordance with Town policy developed by the Natick Board of Selectmen and Conservation Commission.
- 11) The temporary stockpiling of Soil by a landscaper, excavator, or similar commercial enterprise for reuse elsewhere, so long as BMPs are used.

Section 5 Administration

A. The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law, to the extent allowed by law, may be delegated in writing to its Designated Agent.

B. Stormwater and Erosion Control Permits shall be issued as follows:

- 1) Minor Stormwater and Erosion Control Permits shall be issued by the Designated Agent of the Conservation Commission. Review by the Conservation Commission is not required.
 - (a) The Applicant shall submit an Application, fees, and any other permit submission requirements, as specified in this By-Law or the regulations of this By-Law, and shall also comply with any requirements of the Designated Agent.
 - (b) The Designated Agent shall review the submittal for compliance with this By-Law and the By-Law's regulations. The Designated Agent shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.
- 2) Major Stormwater and Erosion Control Permits shall be reviewed and issued by the Conservation Commission.
 - (a) The Applicant shall submit an Application, fees, and any permit submission requirements, specified in this By-Law or the regulations for this By-Law, and shall also comply with any requirements of the Conservation Commission.
 - (b) The Conservation Commission shall review the submittal for compliance with this By-Law and the By-Law's regulations as part of the Conservation Commission's public hearing process on the proposed project. The Conservation Commission shall take an Action as specified in Section 7.H. of this By-Law.
 - (c) Additional permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under Section 6 of this By-Law.

Section 6 Regulations

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

Section 7 Permits

Permit issuance is required prior to any activity disturbing 3,000 or more square feet of land, or as otherwise specified in this By-Law. The Site Owner or his agent shall apply for the permit with the Conservation Commission. While an Application may be submitted by a representative, the Permittee must be the Owner of the Site.

A. **Applications** - An Application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the regulations adopted by the Conservation Commission. Applications for Major Stormwater and Erosion Control permits also require distribution to the Department of Public Works, and the Board of Health for review and comment, and shall be accompanied by certification of delivery to these Town entities when submitted to the Conservation Commission.

B. **Fees** - Fees shall be established by the Conservation Commission to cover expenses connected with public notice, Application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission or Designated Agent is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The Applicant for a Stormwater and Erosion Control Permit may be required to cover the costs of the consultant through an account established pursuant to M.G.L. c. 44, §53G, and any successor statutory provision.

C. **Information Requests** - The Conservation Commission or Designated Agent may request such additional information as is necessary to determine whether the proposed Land-Disturbing Activity will protect water resources and comply with the requirements of this By-Law.

D. **Determination of Completeness** - The Conservation Commission or Designated Agent shall make a determination as to the completeness of the Application and adequacy of the materials submitted. No review shall take place until the Application has been found to be complete.

E. **Coordination with Other Town Entities** – Applications for Major Stormwater and Erosion Control permits require distribution to the Department of Public Works and the Board of Health as noted in Section 7.A. These Town entities shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Major Stormwater and Erosion Control Permit until 1) receipt of reports from Town entities or 2) twenty (20) calendar days after the distribution of the Major Stormwater and Erosion Control Permit Application, whichever occurs first.

F. **Entry** - Filing an Application for a Stormwater and Erosion Control Permit grants the Conservation Commission or Designated Agent permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) calendar days of receipt of a complete Application for a Major Stormwater and Erosion Control Permit, the Conservation Commission shall hold a public hearing. Notice of the public hearing shall, at least seven (7) calendar days prior to said hearing, be given by publication in a paper of general circulation serving the Town of Natick, and by posting the notice at the Town Hall. The Conservation Commission shall be responsible for such public notice as described above. The Conservation Commission shall make the Application available for inspection by the public during business hours at the Town of Natick's Conservation Office.

H. Action and Appeal Process

1) Minor Stormwater and Erosion Control Permit

- (a) **Action** – The Application for a Minor Stormwater and Erosion Control Permit shall be acted upon within ten (10) business days (Saturdays, Sundays and legal holidays excluded) of the date the Designated Agent determines the Application is complete, unless such Application has been withdrawn from consideration. The Designated Agent may:
- i. **Approve the Application and issue a permit** if it finds the proposed plan meets the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Designated Agent determines are required to ensure the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if the Designated Agent finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or if the Designated Agent finds that the Applicant has submitted insufficient information to confirm the proposed plan meets the objectives of and complies with the requirements of this By-Law; or
 - iv. **Determine that a Minor Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

(b) Appeal of Disapproved Applications

- i. The Applicant may modify the Application to meet the objectives of and comply with the requirements of this By-Law and resubmit it to the Designated Agent.
- ii. The Applicant may appeal a permit denial by the Designated Agent by requesting the Conservation Commission review the Application. Such review shall take place with a public hearing as described in Section 7.G. and shall be subject to any review fees or additional submittal requirements as specified in the regulations for this By-Law.

2) Major Stormwater and Erosion Control Permit

- (a) **Action** – The Conservation Commission shall take action on a Major Stormwater and Erosion Control Permit within thirty (30) calendar days from the close of a public hearing as described in Section 7.G, unless such time is extended by agreement between the Applicant and the Conservation Commission. The Conservation Commission shall take one of the following actions:
- i. **Approve the Application and issue a permit** if it finds that the proposed plan will meet the objectives of and complies with the requirements of this By-Law;
 - ii. **Approve the Application and issue a permit with conditions, modifications and/or restrictions** that the Conservation Commission determines are required to ensure that the project will meet the objectives of and comply with the requirements of this By-Law;
 - iii. **Disapprove the Application and deny a permit** if it finds that the proposed plan fails to meet the objectives of or to comply with the requirements of this By-Law or

that the Applicant has submitted insufficient information to confirm the proposed Application meets the objectives of and complies with the requirements of this By-Law; or

- iv. **Determine that a Major Stormwater and Erosion Control Permit is inappropriate and require a different permit or no permit** in accordance with the permit thresholds listed in Section 4.C.

The Permittee, or his or her agent, must notify the Conservation Commission or Designated Agent in writing of any change or alteration of a Land-Disturbing Activity before the change or alteration occurs. If the Conservation Commission or Designated Agent determines that the change or alteration is significant, based on the design requirements listed in the regulations adopted by the Conservation Commission under this By-Law, the Conservation Commission or Designated Agent may require that an amended Application or a full Application be filed in accordance with Section 7. If any change or alteration from the Stormwater and Erosion Control Permit occurs during Land-Disturbing Activities, the Conservation Commission or Designated Agent may require the installation of interim Erosion and Sedimentation control measures before approving the change or alteration. This shall not affect any other obligations the Applicant shall have under M.G.L. c. 121, §40, the Natick Wetlands Protection By-Law, or any other regulation pertinent, or any successor statutory or regulatory provision.

Section 8 Plans

Regulations promulgated by the Conservation Commission shall set forth the types of plans required by a Minor Stormwater and Erosion Control Permit and a Major Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 8A - 8D below. Further requirements, including, but not limited to, circumstances in which plans must be prepared by a registered professional engineer (P.E.) or a registered professional land surveyor (PLS), may be specified by the Conservation Commission or Designated Agent; the provisions herein are not intended to be an exhausted clarification on the specific details of plan requirements.

A. The **Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed Erosion and Sedimentation controls to be used during pre-construction and construction. The Erosion and Sedimentation Control Plan shall fully describe the project in drawings and narrative. The Applicant shall submit such material as is necessary to show that the proposed Land Disturbing Activity will comply with the design standards and contain the information listed in the regulations adopted by the Conservation Commission for administration of this By-Law.

B. The **Low Impact Development (LID) Plan** shall contain sufficient information for the Conservation Commission or Designated Agent to evaluate the acceptability of: the Site planning process; the anticipated impacts of the proposed Land Disturbing Activity on the ecological and hydrological functions of the Site; any measures proposed by the Applicant to maintain ecological and hydrological functions of the Site. The LID Plan shall fully describe the project in drawings, narrative, and calculations, if applicable. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law. The LID plan shall be designed to comply, to the maximum extent practicable, with all standards for LID set forth by the regulations adopted by the Conservation Commission for the administration of this By-Law.

C. The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed Land Disturbing Activity, pertinent conditions of the Site and the adjacent areas, and proposed BMPs for the permanent management and treatment of Stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission or Designated

Agent to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from Stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, and any other Stormwater standards set forth in the regulations adopted by the Conservation Commission for the administration of this By-Law. The Stormwater Management Plan shall fully describe the project in drawings and narrative. The Applicant shall submit such material as is required by the regulations adopted by the Conservation Commission for the administration of this By-Law.

D. An Operation and Maintenance Plan - (O&M Plan) for the permanent Stormwater management system is required at the time of application for all Stormwater and Erosion Control Permits. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 or any successor regulations are met in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Conservation Commission or Designated Agent. The Conservation Commission or Designated Agent shall determine what maintenance option is appropriate in a given situation. The Conservation Commission or Designated Agent will consider natural features, proximity of Site to water bodies and Wetlands, extent of Impervious Surfaces, the size of the Site, the types of Stormwater management structures, BMPs, and the potential need for ongoing maintenance when making this decision. Once approved by the Conservation Commission or Designated Agent, the O&M Plan shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Permittee, shall run with the land, shall remain on file with the Conservation Commission, and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property Owner(s) in areas and as necessary to carry out the required maintenance.

1) Changes to Operation and Maintenance Plans

- (a) The Owner(s) of the Stormwater management system must notify the Conservation Commission or Designated Agent of changes in ownership or assignment of financial responsibility.
- (b) The maintenance schedule in the O&M Plan may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Once the amended Plan is signed, the Conservation Commission shall file it at the Commonwealth of Massachusetts Middlesex South Registry of Deeds at the expense of the current Owner(s).

Section 9 Inspection and Site Supervision for Stormwater and Erosion Control Permits

Regulations promulgated by the Conservation Commission for the administration of this By-Law shall set forth the inspection and site supervision requirements required for a Stormwater and Erosion Control Permit, including, but not limited to, the provisions of Sections 9A – 9D.

A. Pre-Construction Meeting - Prior to the commencement of any Land Disturbing Activity requiring a Stormwater and Erosion Control Permit, a pre-construction meeting may be required as specified in the regulations promulgated by the Conservation Commission for the administration of this By-Law. If required, the Applicant, the Applicant's technical representative, the general contractor, pertinent subcontractors, and any Person with authority to make changes to the project, shall meet with

the Conservation Commission or Designated Agent to review the permitted plans and proposed implementation.

B. Inspection – For all projects requiring a Stormwater and Erosion Control Permit, the Conservation Commission or Designated Agent shall make inspections as required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. The Conservation Commission or Designated Agent shall either approve that portion of the work completed or shall notify the Permittee if the work fails to comply with the approved plans and require any modifications to the work to ensure full compliance with the permit. One copy of the approved plans and conditions of approval, signed by the Conservation Commission or Designated Agent, as applicable, shall be maintained at the Site during the progress of the work. The Permittee shall notify the Conservation Commission or Designated Agent at least three (3) business days (Saturdays, Sundays and legal holidays excluded) before each of the following events:

- 1) Erosion and Sedimentation control and tree protection measures are in place and stabilized;
- 2) Site Clearing and rough Grading have been substantially completed;
- 3) Final Grading has been substantially completed;
- 4) Bury Inspection: prior to backfilling of any underground drainage or Stormwater conveyance structures;
- 5) Close of the Construction Season; and
- 6) Final landscaping (permanent Stabilization) and project final completion.

C. Permittee Inspections - The Permittee or the Permittee's agent shall conduct and document inspections of all control measures as required in the regulations promulgated by the Conservation Commission for the administration of this By-Law, and prior to and following anticipated storm events. The purpose of inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control plan, and the need for maintenance or additional control measures. The Permittee or the Permittee's agent shall submit reports to the Conservation Commission or Designated Agent in a frequency and format required by the regulations promulgated by the Conservation Commission for the administration of this By-Law. The Conservation Commission or Designated Agent may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission or Designated Agent, be retained by the Applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or Designated Agent.

D. Access Permission - To the extent permitted by law, or if authorized by the Owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission or Designated Agent deems reasonably necessary to determine compliance with the permit.

Section 10 Surety for Stormwater and Erosion Control Permits

The Conservation Commission or Designated Agent may require the Permittee to post before the start of the Land-Disturbing Activity subject to a Stormwater and Erosion Control Permit, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond, as a proportion of the completed phase(s), but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a certificate of compliance pursuant to Section 13.

Section 11 Final Reports for Stormwater and Erosion Control Permits

Upon completion of the work under a Stormwater and Erosion Control Permit, the Permittee shall submit a report certifying that all Erosion and Sedimentation control devices, elements of the Application, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter. In addition, the final report for a Major Stormwater and Erosion Control permit shall include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor. As a condition of plan approval for a Minor Stormwater and Erosion Control project, the Conservation Commission's Designated Agent may require that the final report include certified as-built construction plans from a registered professional engineer (P.E.) or registered professional land surveyor.

Section 12 Enforcement

A. The Conservation Commission retains the right to oversee and review all matters relating to Land-Disturbing Activities within the Town of Natick. The Conservation Commission or Designated Agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

- 1) The Conservation Commission or Designated Agent may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include, but are not limited to, the following:
 - (a) a requirement to cease and desist from the Land-Disturbing Activity until there is compliance with the By-Law and/or the provisions of the Stormwater and Erosion Control Permit;
 - (b) maintenance, installation or performance of additional Erosion and Sedimentation control measures;
 - (c) monitoring, analyses, and reporting; and/or
 - (d) remediation of Erosion and Sedimentation resulting directly or indirectly from the Land-Disturbing Activity.
- 2) If the Conservation Commission or Designated Agent determines that abatement or remediation of Erosion and Sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or Owner fail to abate or perform remediation within the specified deadline, the Town of Natick may, at its option, undertake such work, and the Owner shall reimburse the Town for its expenses.
- 3) Within thirty (30) calendar days after completing all measures necessary to abate the violation or to perform remediation, the violator and the Owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or Owner may file an appeal objecting to the amount or basis of costs with the Conservation Commission within thirty (30) calendar days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal within thirty (30) calendar days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the Owner and shall constitute a lien on the Owner's property for the amount of such costs. Interest shall begin to accrue on any unpaid costs at the

statutory rate, as provided in M.G.L. c. 59, §57, or any other successor statute, after the thirty-first calendar day following the calendar day on which the costs were due.

C. **Criminal Penalty** - Any Person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. Each calendar day that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or Designated Agent shall be the Authorized Enforcement Agency. The penalty for each violation shall be \$300.00. Each calendar day that such violation occurs or continues shall constitute a separate offense.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **Remedies Not Exclusive** - The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 13 Certificate of Stormwater and Erosion Control Permit Compliance

Since a Stormwater and Erosion Control Permit runs with the title of a property, the Permittee shall request the Conservation Commission to issue a Stormwater and Erosion Permit Certificate of Compliance upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Compliance shall be recorded at the Commonwealth of Massachusetts Middlesex South Registry of Deeds by the Owner(s).

Section 14 Severability

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any Person, establishment or circumstance shall be held invalid for any reason, all other provisions, to the maximum extent permitted by law, shall continue in full force and effect.”

And to take all such action necessary and appropriate to accomplish the purposes of this article.



ARTICLE 21
West Natick Fire Station Signal Controls
(Board of Selectmen)

MOTION:

Move that the Town vote, subject and pursuant to General Laws Chapter 40, Section 3, Section 4, and Section 15, and any other enabling law, to authorize the Board of Selectmen to release and convey all right, title and interest held by the Town, to the Commonwealth of Massachusetts Department of Transportation, on such terms and conditions, which may be nominal consideration, as the Board of Selectmen deems appropriate, of a portion of certain Town property located at 268 Speen Street for a shared use walkway for pedestrian travel to be located within the state highway layout; the portion to be discharged will not exceed 0.35 acres and is to be located one (1) foot from the innermost side of the shared use walkway that travels along the Route 9 off-ramp; and to take all action necessary or appropriate to accomplish the purposes of this article.

22 Pleasant Street

“Move that the Town vote to amend its previous votes under Article 35 of 2015 Spring Annual Town Meeting, Article 29 of 2016 Spring Annual Town Meeting, Article 27 of 2017 Fall Annual Town Meeting which votes authorized negotiation, appropriation of funds borrowing for the acquisition of property known as 22 Pleasant Street; being shown as Assessors Map 64, Lot 44 in South Natick (the Site) by purchase, gift, eminent domain, or otherwise but which contain a condition that Board of Selectmen were not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property in order to

- 1) Amend the condition which currently reads “provided that the Board of Selectmen is not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property” so that such condition now reads “provided, in the event of a fee purchase of said property, that the Board of Selectmen is not authorized to acquire said property unless a Purchase and Sale Agreement, satisfactory to the Board of Selectmen, is entered into with the owner of said property and that such requirement for a Purchase and Sale Agreement shall not apply to acquisition by eminent domain taking or gift”
- 2) Amend the condition of Article 35 of Spring 2015 which currently reads “to authorize the Board of Selectmen to negotiate with the Owner of the 22 Pleasant Street Property to purchase and acquire the property for park and recreation purposes. Said property is to be acquired free and cleaned of all contamination for its intended use and purpose ” to now read “to authorize the Board of Selectmen to negotiate with the Owner of the 22 Pleasant Street Property to purchase and acquire the fee simple interest in the property for park, recreation access and related parking purposes. Said fee simple interest in the property is to be acquired free and cleaned of all contamination for its intended use and purpose”

and to provide an additional and alternative authorization for the Board of Selectmen

- a) To purchase, acquire, accept by gift, or take by eminent domain a comprehensive surface and air rights easement for park, recreation, access, and related parking purposes (“Comprehensive Easement”) for all, or substantially all, of the Site;
- b) To purchase, acquire, accept by gift, or take by eminent domain a limited or total sub surface easements for all or portions of the Site in conjunction with a Comprehensive Easement
- c) To vary any subsurface easement in depth and/or in lateral scope within the Site in order to avoid areas of i) underground contamination, including but not limited to any areas of contamination that rise or fall with periodic changes in the water table, ii) underground tanks and iii) underground areas containing any undesirable feature or condition
- d) That such Comprehensive Easement may alternatively be used for portions of the Site in conjunction with fee acquisition for other portions of the Site, provided that such combination result, at a minimum, in acquisition of all or substantially all the surface and air rights of the Site; and/or
- e) To use a Comprehensive Easement for all or substantially all of the Site either on a standalone basis or in combination with fee acquisition to acquire all beneficial surface and above ground rights, uses, buildings, structures, trees, areas of now or former canals located east of Pleasant

Street, and the like, in conjunction with limited or total subsurface easements for improvements for utilities and drainage or other subsurface areas; and/or

- f) To negotiate and/or to impose an Activity and Use Limitation to encompass and/or to encapsulate and/or to pave over or otherwise restrict use of any areas of or over identified contamination;
- g) To allow access, whether by right, permission or otherwise, through designated portions of the Site once acquired under this Article for the use of the Wellesley Cooperative Nursery School (or any similar charitable trust successor) located on deed restricted land under the deed of Isabella Pratt Hunnewell Shaw at Merrill Road (a private way) abutting Hunnewell Park
- h) In connection with any fee acquisition, Comprehensive Easement, or combination thereof, either to permit or to require the owner of the Site or other party to:
 - i) remove all or part of the existing building,
 - ii) fill any basement or substructure areas that are removed with clean fill,
 - iii) excavate, remove and replace any contaminated soil with clean fill,
 - iv) excavate and remove any underground tanks and replace same with clean fill,
 - v) excavate and remove any underground wheels, machines, generators, water flow harnessing devices, and the like and replace same with clean fill,
 - vi) the preference being that areas of now or former canals east of Pleasant St not be filled in such a way that such canal use cannot be revived
 - vii) specify that such removal and replacement activities may occur either before or for a period of time after the closing on or eminent domain taking of the Town contemplated under this Article,
 - viii) that access may be allowed for the owner or other party after the closing, or eminent domain taking for such period of time as the Selectmen may negotiate to accomplish the purposes of this Article, and/or
 - ix) that such subsequent access may include monitoring of the Site
- i) To acquire as part of any Comprehensive Easement or fee include:
 - i) the portions of the Charles River that are recorded as part of the 22 Pleasant Street lot; and
 - ii) any and/or all above ground, surface and/or subsurface utilities serving or accessible to 22 Pleasant Street; and
 - iii) any and/or all rights of 22 Pleasant St on, of and/or to lands, flow lands, dam access and repair, submerged lands and or all other real property interests and rights located to the west of Pleasant Street.

Further, to authorize the Board of Selectmen and other applicable boards, commissions, and personnel to apply for and receive grants or gifts for the purposes of this Article and to take all action necessary or appropriate to accomplish the purposes of this Article;

And further provided that the term “substantially all” shall have the meaning provided under the warrant article

And further provided that all other provisions of the votes of Article 35 of Spring 2015 Town Meeting, Article 29 of Spring 2016 Town Meeting and Article 27 of Fall 2017 Town Meeting shall remain in full force and effect.

Warrant Article Questionnaire Non-Standard Town Agency Articles

Section III – Questions with Response Boxes – To Be Completed By Petition Sponsor

Article # 26	Date Form Completed: 9/9/2019
Article Title: 22 Pleasant Street	
Sponsor Name: Park and Recreation Commission & Seth Levine et al.	Email: nrpdjason@gmail.com

Question	Question
1	Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.
Response	Please see attached motion.
2	At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?
Response	<p>Access to the Hunnewell Park fields was been revoked by the owner of 22 Pleasant St. on November 28, 2018 effective as of the earlier of 12/01/19 or sale of the property. The Board of Selectmen and Town Administration received this letter, return receipt registered mail, in early December 2018. The letter is attached.</p> <p>The purpose is to acquire a Comprehensive surface and air rights of 22 Pleasant Street to accomplish four key objectives in one acquisition: 1) to gain unfettered access rights to Hunnewell Park fields, 2) to gain ability to park on 22 Pleasant Street in addition to or instead of on Hunnewell Park gravel lot, 3) to complete an assemblage of recreation, open space land and 4) to avoid any Town involvement with the underground contamination that was the stated reason for the Board of Selectmen not following through on the fee simple purchase of 22 Pleasant Street.</p> <p>The concept of a Comprehensive surface and air right easement is a straightforward concept used routinely in the commercial real estate world. In fact, a form of such easement was used by the Town to acquire Pegan Hill in 2016.</p> <p>22 Pleasant St is essential to the access to and any meaningful use of Hunnewell Park fields.</p>
3	Has this article or one of a very similar scope and substance been on a previous Warrant Article and what has been the actions taken by Finance Committee, other Boards or Committees and Town Meeting?

Warrant Article Questionnaire Non-Standard Town Agency Articles

Response	<p>Three previous articles for the fee acquisition of 22 Pleasant Street were approved by Town Meeting by overwhelming 2/3's plus votes. The minutes for these articles and actions of Town Meeting are attached. These minutes include the Finance Committee recommendations.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <th style="width: 25%;">Warrant Period</th><th style="width: 25%;">Other Committees</th><th style="width: 25%;">FinCom Action</th><th style="width: 25%;">Town Meeting</th></tr> <tr> <td>FTM 2016</td><td></td><td></td><td></td></tr> <tr> <td>SATM 2016</td><td></td><td></td><td></td></tr> <tr> <td>FTM 2015</td><td></td><td></td><td></td></tr> <tr> <td>SATM 2015</td><td></td><td></td><td></td></tr> <tr> <td>Prior</td><td></td><td></td><td></td></tr> </table> <p style="margin-top: 20px;">Comments:</p>	Warrant Period	Other Committees	FinCom Action	Town Meeting	FTM 2016				SATM 2016				FTM 2015				SATM 2015				Prior			
Warrant Period	Other Committees	FinCom Action	Town Meeting																						
FTM 2016																									
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4	<p>Why is it required for the Town of Natick and for the Town Agency sponsor(s)?</p>																								
Response	<p>Access to the Hunnewell Park fields was been revoked by the owner of 22 Pleasant St. on November 28, 2018 effective as of the earlier of 12/01/19 or sale of the property. The Board of Selectmen and Town Administration received this letter, return receipt registered mail, in early December 2018. The letter is attached.</p> <p>The acquisition of surface and air rights easement is the only cost effective way to <u>assure</u> access to Hunnewell Park. Although a gift of access is theoretically possible, reliance on a possible gift is a bad strategy. There can be no assurance that a gift of access would be given. There is also no assurance that a gift of access is possible either on a timely basis or ever.</p> <p>The issue of access was extensively analyzed by the 22 Pleasant Street Study Committee in 2014. The report which included the key findings on access is available. (The chair and vice chair have prepared a detailed and further explanation of various access ideas and related problems.) The key findings from the 2014 committee work – which were analyzed and written with the assistance of Town Counsel - are:</p> <ol style="list-style-type: none"> 1) The Town has no right of access through 22 Pleasant St. 2) The Town cannot obtain access by asserting adverse possession or prescriptive easement. 																								

Warrant Article Questionnaire Non-Standard Town Agency Articles

- 3) The Town cannot use any form of zoning or special permit or variance to trade for access rights. Such would be an illegal use of “police power” with serious US constitutional issues involving land takings without compensation.
- 4) The Town's only possible existing access connection is a 15 foot wide cart path that extends 382 feet from Pleasant St to the Hunnewell Park dirt and gravel lot.
- 5) This 15 foot wide corridor is actually 12.5 feet because the stone wall is on the 15 foot wide strip of Town land. Either way, it is too narrow for two vehicles to pass and is located too close (4 feet+/-) to the driveway of 22 Pleasant St to be a safe means of access and egress.
- 6) The Town's zoning bylaws and other regulations could actually be used against the Town if the Town were to try to create separate or joint access.

The Board of Selectmen were informed of these access problems in July 2014 by the study committee, were urged to seek an access solution and cautioned that it might not/would not be cheap because of the complexity of the 22 Pleasant St. property. The Board of Selectmen and Town Administration should have been aware as early as 2009 that access was an issue. Temporary access barriers were installed by the owner at that time.

Last November 2018, the owner of 22 Pleasant St revoked the Town's access privileges effective at the earlier of 12/01/19 or sale of the property. This letter and this fact were withheld by the Selectmen and Town Administration for over 8 months. The existence of this letter has only recently emerged. (Note: The letter itself is NOT executive session or confidential material.) Without access, the Town's ability to use Hunnewell Park and its ballfields is seriously impaired if not ruined. Because of the threat to the Town's ability to use Hunnewell Park, the Recreation and Parks Commission and the citizens sponsored this article.

The Town has four options to consider:

- 1) lose access or Field Two,
- 2) hope for a gift of access,
- 3) pay all the costs for and attempt to acquire access only or
- 4) acquire a Comprehensive Surface and Air Rights Easement for the whole property.

Option 1 is unacceptable. Option 2 is a problematic strategy. Option 3 will not be cheap and could cost \$1.5 to \$2.5 million because of the possible effects of taking access. In any eminent domain taking, damages are due not only for what is taken but also for the effects of the taking on any land not taken. (For convenience, these are referred to in this write-up as the direct damages and the consequential damages respectively.) Option 4 would secure access, avoid the cost of re constructing the driveway, provide rights parking areas of 22 Pleasant St that are already used extensively by the Town, complete an assemblage of park and recreation land and avoid underground contamination.

Option 1: Lose Access or Field Two

Warrant Article Questionnaire Non-Standard Town Agency Articles

Losing access is unacceptable. Although it is theoretically possible to create access in through Field Two and around to the gravel parking lot, this would result in the loss of Field Two. That is unacceptable.

Option 2: Hope for a Gift of Access of Rights

Any gift of access would need to be a true gift. It could not be coerced or compelled. A gift would require the consent of the owner of the property, any tenant for the property and any mortgage lender. The current owner has sent us an access revocation notice; not a gift. Any buyer could not give us access until they owned the property. If they used a mortgage lender, that lender would need to agree to release those rights from their collateral. If the property is rented, the tenant would need to agree. If a buyer or tenant needed a special permit before buying the property, attempts to conflate access and special permit could result in legal claims and damages against the town by the buyer and/or the seller (or the tenant and/or landlord) for interference in a transaction. If a transaction does not happen soon, we would be dealing with the existing owner – who sent us the revocation notice. New buyer might understandably want to understand what the level of access demand and effects on their property are before considering a gift.

A gift would also raise complicating issues of insurance and maintenance. A gift of access would cross part of 22 Pleasant St. In today's world of liability, very few if any businesses can get their insurance company to cover extensive use of their property by non company and non business related traffic. Employees, customers, deliveries and visitors would be likely covered. However, 1,100 to 1,00 Little Leaguers and their parents, siblings and grandparents most likely won't. A company giving a gift would need to consider whether they would be covered or self-insured. Maintenance expenses and responsibilities would be a similar issue.

The Town has been incredibly fortunate that Mr. James Knott, Sr. who owned the property personally allowed us access privileges for so long. It's not clear the Town ever even said "Thank you". It is not clear if Mr. Knott was personally covered under a large person umbrella insurance policy or was not concerned about such issues. Fifty six years ago when he purchased the property, personal injury and liability insurance concerns are not what they are today. A new owner could understandably have serious reservations and problems with any gift of access.

Reliance on a gift of access is essentially a pure hope on the generosity of a commercial party. This is not a strategy to secure access. It is simply a hope. Further it is a hope with serious impediments.

Options 3: Pay All the Costs For and Attempt to Acquire Access Only

This option is not part of this article. This option is not cheap, will not be timely, presents numerous potential litigation problems and could even be prevented by an owner of 22 Pleasant St. These factors are explained below and make this option problematic.

22 Pleasant St. access will not be cheap.

Warrant Article Questionnaire Non-Standard Town Agency Articles

	<p>The front part of 22 Pleasant Street consists of RG zoned land but has frontage on a private way from a 1911 recorded plan. This private way runs from Pleasant St. to the Charles River. Town Counsel advised that this private way could be used as legal frontage although the private way would need to be constructed to current and wider standards. Even with these standards, the RG portion of 22 Pleasant St. appears adequate for three residential lots. RG land allows for single family or two family duplexes on each lot. A Town driveway through this RG land could render these lots worthless requiring full compensation for that portion of the land. Take your estimate of a residential lot in South Natick and multiply by three. However, there are potential costs and value effects on the Ind -1 part of the property.</p> <p>As determined by the study committee and town counsel, the existing building could be converted as of right to an office building or even demolished and rebuilt in the same location as a fully modern office building. Both an office and an industrial use would require access and egress. Town interference with those access rights could lead to <u>further</u> damages in addition to damages for taking the RG lots. The fact is that all of the access and egress rights currently belong to the owner of 22 Pleasant St. None belong to the Town.</p> <p>The Town would need to consider effect of the Town's traffic in and out of 22 Pleasant Street. 22 Pleasant Street has approximately 120 to 125 feet of frontage on Pleasant Street. However, the actual driveway of 22 Pleasant St. is about 40 to 45 feet wide at the line of Pleasant St. The driveway cannot be widened and cannot be relocated because of the state bridge abutment. This means two way (in and out) Town access would have to use part of the existing driveway at least at the entrance /exit. This creates a potential traffic conflict with traffic for the existing building in the industrial I part of 22 Pleasant St. in addition to safety issues.</p> <p>Potential traffic conflicts between the youth baseball and softball programs and a commercial use of the Ind -1 part of 22 Pleasant St could conceivably deprive the Ind -1 part of the site of most if not all of its value depending on the type of commercial use. For example, an owner might claim to be unable to rent the building to tenants who need unimpeded access in and out of 22 Pleasant St at the beginning and end of each business day throughout the year; not just outside of baseball season. The Town's use of 22 Pleasant St would not support the town's position to the contrary. Baseball and softball parking of 20 or more vehicles regularly sprawls onto 22 Pleasant St and sometimes even takes all of the parking including the entire length of the existing driveway. Whether these vehicles continue to do that and have to be ticketed and towed, park instead on Pleasant St, create traffic problems in/out of 22 Pleasant St., or otherwise, serious adverse effects could result for the commercial use. The extent of any such damages would be the subject of expert (not legal) analysis and testimony. The cost of litigation , expert reports and additional damages should not be dismissed. If the Town were to lose, it would have to pay.</p> <p style="text-align: center;"><u><i>Cart Path Cannot be Combined with 22 Pleasant Street or Used in Isolation</i></u></p> <p>The Town has a 15 foot wide strip of land that runs 382 feet from Pleasant St. to the gravel /dirt parking lot which is also located on Town land. This 15 foot wide strip is part of Hunnewell</p>
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Warrant Article Questionnaire Non-Standard Town Agency Articles

	<p>Park. Although the town owns this 15 foot wide strip, surveys indicate that an historic stone wall is located along this strip of land and that the actual available width is 12.36 feet.</p> <p>This strip of land is not wide enough for two vehicles to pass. This strip of land is not a driveway, does not have a curb cut and is only 4-5 feet from the driveway of 22 Pleasant St. The Town's strip of land at the Pleasant St. line ends directly at a pedestrian walkway with handicapped access paving. It would require a curb cut and permitting as a driveway. (See further discussion below.) In the unlikely event that it was successfully permitted, it would require expensive police details at each end of the 382 foot length. The current cost of these details – just for the Little League season of April, May and June would be approximately \$120,000 per season. At a 4% discount rate and no inflation, that is a present value cost of \$3,000,000 just for police details. There would be additional costs for paving the new driveway.</p> <p>All of Hunnewell Park is Article 97 protected land. Article 97 prevents this 15 foot wide strip from being combined with land from 22 Pleasant St. for either a shared driveway or a new street. Any conversion of Article 97 land to a non park use requires a unanimous vote of the Selectmen, a 2/3's vote of Town Meeting for this purpose, preparation and filing of an Environmental Notification Form to the Secretary of Energy and Environmental Affairs, related MEPA approval including mitigation lands, a 2/3's roll call vote of the Massachusetts House of Representatives and a 2/3's roll call vote of the Massachusetts Senate. A shared driveway also presents permitting obstacles and risks as discussed below.</p> <p>If a new driveway were 30 feet or more in width and opened to the public, it would be a street under the Zoning ByLaw. As a street it would need to terminate into a cul de sac that is 120 feet in diameter. Such a cul de sac could not be located in Article 97 land, would need to be located entirely on 22 Pleasant St., and would add to the damages for RG lots and could add to the damages for traffic conflicts. Further costs and time delays would be needed for the construction of a new street.</p> <p style="text-align: center;"><u><i>Litigation Risks and Permitting Barriers and Requirements Exist w/ Option 3</i></u></p> <p>Any change in the existing driveway would require a special permit and site plan review. Driveways which are located too close to one another cannot be permitted. If permitted, they can be appealed. In fact any special permit and site plan can be appealed. Such appeals, if sustained by a court, could prevent an access only solution.</p> <p>Shared driveways are also prohibited in the current zoning bylaw. A zoning bylaw change would be needed. Any zoning bylaw change would apply throughout town and might be a problematic idea. Significant litigation costs, delays and uncertainties could occur.</p> <p style="text-align: center;"><u><i>Significant Implementation Problems and Delays Exist w/Option 3</i></u></p> <p>To implement an access only solution will likely require the use of eminent domain. We should remember that the owner has revoked access privileges. The above problems would or could occur <u>after</u> an eminent domain taking. Before an eminent domain taking, detailed plans would</p>
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Warrant Article Questionnaire Non-Standard Town Agency Articles

	<p>need to be prepared locating the taking . Appraisal would need to be obtained before the taking. Reportedly, no such plan has been prepared and no appraisal commissioned. Both would need to be completed before Fall Town Meeting dissolves.</p> <p>Once a taking and amount of money were approved by Town Meeting, order of taking would need to be drafted, voted and then recorded at the Registry of Deeds by the Selectmen. Then the permitting process and potential litigation over damages could commence. The permitting could not be started without a zoning change which is not on the warrant. Once all of these were accomplished and assuming that no litigation was filed for an unsafe driveway, the Town could begin work on the new driveway sometime next June after Spring 2020 Town Meeting votes the money to build the driveway. The 2020 youth baseball and softball season would not occur. Access would not be available until after a driveway was completed. If a new driveway was successfully appealed, the current youth baseball and softball programs would cease to exist.</p> <p>For all of these and other reasons, the sponsors believe that attempts at access only solutions are highly problematic and potentially as costly or more costly than outright acquisition of 22 Pleasant St especially when costs are measured not only in terms of Town funds but also in terms of the costs and consequences to programs. For these reasons, the sponsors wrote the article to prevent misguided efforts to use this article for access only.</p> <p><u>Option 4: Acquire a Comprehensive Surface and Air Rights Easement for the Whole Property</u></p> <p>This option definitively secures access and does so on a timely basis without any permitting or construction costs, litigation and time delays. This option is the only option that secures and assures access. The only litigation risk is for extra damages. Although possible, this is unlikely. The existing Town Meeting appropriation for \$3.2 million is also the listing price on LoopNet. One broker lists it for 3.4 million. However, an owner would be hard pressed to demonstrate further damages if the Town met a published list price.</p> <p>The Comprehensive Surface and Air Rights Easement would take all of the beneficial uses of 22 Pleasant St but would avoid the underground contamination. Such an easement is a traditional solution when there is something underground that the buyer (us) doesn't want or something valuable underground that the Seller does not want to give up.</p> <p>The acquisition costs under this article are fairly fixed and do not have permitting, litigation or additional damages risks. The existing driveway would be used but only by the Town. This driveway is covered under zoning. Properly negotiated or even coordinated with an eminent domain taking, the current owner would be able to remove the underground contamination which necessitates knocking the existing building down. The current owner could remove the contamination and get their family/company out of likely future environmental liability. An activity and use limitation i.e. for parking over any area of current or former contamination – similar to the Rail Trail and Mechanic Street, could ensure this. Properly negotiated, this Option</p>
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Warrant Article Questionnaire Non-Standard Town Agency Articles

	<p>4 could result in the cleanup of underground contamination next to the Charles River. This is something no other option provides.</p> <p>This Comprehensive Surface and Air Rights Easement approach also provides other benefits.</p> <p>People would be able to park on the paved area of 22 Pleasant St. The overcrowded parking conditions would be relieved. Over time new fields (baseball, softball or other) could be designed either on the current gravel lot or on the RG part of 22 Pleasant St. Parking could be provided in the area of the current building. The assemblage of 22 Pleasant St with the Hunnewell Park land creates any number of possibilities that could never otherwise even be considered. The sponsors note that the boundary line between Hunnewell Park and 22 Pleasant St is approximately 1,000 feet long and runs from Pleasant St to the Charles River.</p> <p>In addition, 22 Pleasant St sits in the center of extensive town park lands on the other side of Pleasant Street that consist of almost 16 acres. These parklands are partly wet a seasonal basis and other parts always dry. These lands are not well used because they lack parking which 22 Pleasant St could provide. Further the Town owns park and conservation land on the other side of the Charles. Prior to the great depression, canoeing and boating were available on both sides of Pleasant St. The possibility exists to revive these uses and include kayaking.</p> <p>One Selectmen has remarked that we should never buy land without knowing the definitive plan. That is not the way the real estate world works. Any assemblage inherently has value and allows that planning to then take place. This assemblage also definitively secures access and adds parking.</p> <p>The game of Monopoly was patterned after the way the real estate world works. In Monopoly getting all the colors is the real world equivalent of completing the assemblage. Even children understand the benefit of owning Boardwalk and Park Place and then figuring out if your building houses or hotels. Once you own all the colors the value goes up and then you get flexibility to do things that otherwise are not possible. The game is a simplified version of reality but the principle holds. And in a certain sense our Hunnewell Park is the Boardwalk to 22 Pleasant Street's Park Place.</p>
5	Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?
Response	This article seeks to amend the previous borrowing authorization and appropriation for the fee simple purchase of 22 Pleasant Street by adding the surface and air rights as a use if the funds. The previous appropriation and borrowing authorization of \$3.2 million would be unchanged.

Warrant Article Questionnaire Non-Standard Town Agency Articles

6	<p>Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions?</p> <p>Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?</p>
Response	<p>This article is in concert with three previously voted article of Town Meeting i.e. Article 35 of Spring 2015, Article 29 of Spring 2016, and Article 27 of Fall 2017.</p> <p>Yes, this motion seeks to amend the previous purchase authorizations to allow acquisition of surface and air rights instead of the fee ownership to the center of the earth. The motion also seeks to apply the condition of a purchase and Sale agreement only to a fee simple purchase. The relaxation of this provision would permit eminent domain which would otherwise be precluded. Because the motion seeks a surface and air rights easement and allows subsurface easements if the underground contamination is avoided and because the reported contamination is underground, the motion also seeks to relax the requirement that the property be free and clear of contamination. Such restriction would not be relevant to surface and air rights. However, the motion permits an activity and use limitation over any area of underground contamination which is not remediated.</p> <p>The article permits and the motion includes amendments to the previously voted town meeting actions. These amendments are contained in the motion.</p>
7	<p>How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?</p>
Response	<p>The proposed motion and its implementation are not affected by the Towns ByLaws. The Town does not have a financial plan so called. The item is not on the capital plan but then again neither is the loss and replacement of Hunnewell Park. The motion is highly consistent with the Open Space Plan and Master Plan.</p>
8	<p>Who are the critical participants in executing the effort envisioned by the article motion?</p>

Warrant Article Questionnaire Non-Standard Town Agency Articles

Response	(Type response here)
9	<p>What steps and communication has the sponsor attempted to assure that:</p> <ul style="list-style-type: none"> • Interested parties were notified in a timely way and had a chance to participate in the process • Appropriate Town Boards & Committees were consulted • Required public hearings were held
Response	<p>Multiple attempts were made to communicate with the Board of Selectmen who indicated a) they would be unable to meet with the citizen sponsors before the warrant closed, b) had no plans for any access or other article for 22 Pleasant St. c) wanted to wait until after the warrant closed, and d) could not have any communication outside of executive session.</p> <p>The citizen sponsors went to the effort of writing up detailed analysis to get the Selectmen to focus. Selectperson Adelman Foster actually read it.</p> <p>In Spring 2015, the Board of Selectmen actually sponsored an article (Article 34 of Spring 2015) for acquiring access by purchase or eminent domain. They requested and received Referral to the Sponsor. The sponsors of this Article 26 suggest that the Finance Committee compare the language of Article 25 on the current warrant to Article 34 on the Spring 2015 warrant and note the greater precision of the 2015 article. There have been 8 annual and several special Town Meetings since that request for referral for the Selectmen to have proposed a potential access idea.</p> <p>During the preceding 5 years no member of the Board of Selectmen or Town Administration had any interest in meeting with members of the study committee on the details and problems of access. Last September and October, after concerns about underground contamination were made public (after the then warrant had closed), member of the study committee informed the then Chairperson of the Board of Selectmen about the ability to avoid contamination concerns by using a surface and air rights easement concept. The idea was summarily rejected without consideration or opportunity to explain the concept.</p>
10	Since submitting the article have you identified issues that weren't initially considered in the development of the proposal?
Response	(Type response here)

Warrant Article Questionnaire Non-Standard Town Agency Articles

11	If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?
Response	<p>The Town will likely lose access to the Hunnewell Park fields either for the 2020 youth baseball season or permanently. The youth baseball and softball programs could be impaired or shut down. The Town would also forfeit a once in 100 year opportunity to complete a large recreation land assemblage in South Natick.</p> <p>Under an alternative article, the Town could also find itself paying equivalent money just for an access driveway, being embroiled in lengthy and losing litigation and finding the required permits for its access driveway overturned by the courts on safety, zoning and other grounds.</p> <p>The time frame for the implementation of this article is straightforward and direct. The Town could take the surface and air rights easement by eminent domain within 45 days of the dissolution of Fall 2019 Town Meeting. This time period would give the Boar of Selectmen time for a meeting to draft, approve and record the order of taking and pay the associated funds. The Town already has an appraisal for the full property.</p> <p>Under an alternative article, the Board of Selectmen would need to layout and define what would be taken, get an appraisal for that, and then draft and approve and record the order of taking and then begin a Special Permit process and Site Plan Review for a new or altered driveway which could be appealed by the property owner or any abutter.</p> <p>The order of taking for all of the surface and air rights under this article is rather easy to draft: it's everything. No special permit would be required because the pre-existing driveway would be used and would be only for one use.</p> <p>Drafting a partial taking for a driveway requires detailed survey and engineering plans to determine the location of the easement. Such an easement would be complicated by issues of responsibility for insurance and maintenance. The alternative also requires either alteration of the existing driveway to accommodate two uses or construction of a second driveway – at least in part. This construction would add to the time frames for the alternative.</p>

ITEM TITLE: West Natick Fire Station Building Committee

ITEM SUMMARY: a. Create Ex-Officio Position
b. Accept John Ciccariello's resignation and appoint as Ex-Officio member

ATTACHMENTS:

Description	Upload Date	Type
Resignation-J. Ciccariello	9/24/2019	Cover Memo
Resignation as Citizen-At-Large Member-P. Hayes	9/16/2019	Cover Memo
Appointment of Fincom Rep-P. Hayes	9/16/2019	Cover Memo
Committee Packet	8/29/2019	Cover Memo
Email-P. Hayes	9/3/2019	Cover Memo



Patricia O'Neil <poneil@natickma.org>

Fwd: West Natick Fire Station Prjoect

1 message

Michael Hickey <mhickey@natickma.org>
To: Selectmen <selectmen@natickma.org>

Tue, Sep 17, 2019 at 9:13 PM

Board Members,

FYI.

Thanks,
Mike

----- Forwarded message -----

From: **Michael Hickey** <mhickey@natickma.org>
Date: Tue, Sep 17, 2019 at 9:12 PM
Subject: Re: West Natick Fire Station Prjoect
To: John Ciccariello <johngreydolphin@gmail.com>
Cc: Donna Donovan <ddonovan@natickma.org>, Patrick Hayes <phayes.fincom@natickma.org>, Melissa Malone <mmalone@natickma.org>

Dear John,

Thank you for your kind email. This item was taken up for discussion at last night's Selectmen's meeting, and it was decided to move forward with reduction from 10 to 9 Committee members. As planned, the "mechanics" of this was to reduce the number of "at-large" members from 3 to 2, and for Patrick to succeed you as the Finance Committee's representative. I explained to Board members that while geography has made it more difficult for you to attend meetings, that you have graciously and generously agreed to continue to participate, offer your professional opinions and recommendations, and otherwise contribute if, as and when your schedule permits as an "Ex Officio" member. Not surprisingly, the Board embraced that suggestion, with great appreciation. So, I plan to bring this back before the Board to "make it official" at our next opportunity. In the meantime, thank you for your willingness to continue to serve in that capacity. And, On behalf of the Board, thank you for all your contributions on this and so many other building projects.

Look forward to seeing you next time you're in town.

Respectfully,

Michael J. Hickey, Jr., Chair
Natick Board of Selectmen

On Tue, Sep 17, 2019 at 11:27 AM John Ciccariello <johngreydolphin@gmail.com> wrote:

Dear Michael: It is with great sadness that I must advise you that I can no longer participate as Chairman or as a member of the Building Committee. Since permanently relocating to the Cape it has become more difficult to attend the committee meetings and participate in important decisions required by the committee.

I have had the opportunity to continue to receive emails and stay atop of what has been transpiring with the project and would like to continue to do so as an Ex Officio Member (non voting) if the Board of Selectmen wishes to consider such.

I have spoken with Melissa and Patrick on occasion on the some of the issues which have arisen and would be willing to provide my professional opinion and recommendations to the Board if for some reason an outside opinion is warranted.

Please accept this email as my letter of resignation from the committee.

Respectfully yours
John Ciccariello

September 15, 2019

Mr. Michael Hickey
Chair, Board of Selectmen
Town of Natick
13 E. Central St.
Natick, MA 01760

Dear Mr. Hickey,

Please accept my resignation from the West Natick Fire Station Building Committee, as a Citizen-At-Large member, effectively upon the Board of Selectmen accepting the new appointment of the Finance Committee's representative to fill it's appointee to the same committee.

Thank you,

Patrick Hayes
8 Sassamon Road
Natick, MA 01760

TOWN OF NATICK
Finance Committee

September 16, 2019

Mr. Michael Hickey
Chair, Board of Selectmen
Town of Natick
13 East Central Street
Natick, MA 01760

In re: Appointment to the West Natick Fire Station Building Committee

Mr. Hickey,

I am hereby appointing Patrick Hayes, as the Finance Committee's representative on the West Natick Fire Station Building Committee. Mr. Hayes will replace John Ciccariello.

This appointment will become effective, upon the Board of Selectmen accepting the resignation of Mr. Hayes, as a Citizen-At-Large member of the same committee.

Thank you for your attention to this matter.

SUBMITTED BY
A. Patrick Hayes
Chair of the Finance Committee

Copy to: Town Moderator
Diane Packer, Town Clerk



WEST NATICK FIRE STATION BUILDING COMMITTEE

BOARD DETAILS



OVERVIEW



SIZE 10 Seats



TERM LENGTH N/A



TERM LIMIT

History

In November, 2007, the Board of Selectmen voted to establish the West Natick Fire Station Study Committee (the "Study Committee"). The Study Committee was charged with reviewing prior relevant studies, evaluating the status and condition of the West Natick Station facilities and site, evaluating programmatic needs, and assessing the feasibility of renovating the current station vs. building a new station.

The Study Committee engaged the Maguire Group to conduct a Space Needs Program; this study was completed February 1, 2008. The resulting Study Committee Report, submitted to the Natick Board of Selectmen on March 6, 2008 concluded that Station 4 as currently constructed and sited would not accommodate the growing fire, rescue and medical response demands resulting from recent and anticipated growth within the West Natick area.

The Study Committee concluded that a new Station 4 should be built but a conceptual site plan demonstrated that the existing site was inadequately sized to accommodate a new facility. Subsequently, the Town acquired adjoining state-owned land such that the site is now sufficient to accommodate a new and expanded facility adequately sized to meet the service needs of the busy West Natick area.

Formation Of West Natick Fire Station Building Committee

The Board of Selectmen has voted to establish the West Natick Fire Station Building Committee (the "Building Committee") to advance the work of the West Natick Fire Station Study Committee with the objective of designing and developing a new West Natick Fire Station.

Committee Composition

- 1 member of the Board of Selectmen or designee (to be appointed by the Board of Selectmen)
- Town Administrator or designee
- Fire Chief
- 1 member of the Finance Committee or designee (to be appointed by the Finance Committee)
- 1 member from the Deputy Chiefs' union (to be appointed by the Union)
- 2 members from the Firefighters' union with, preferably, one of said members being assigned to Station 4 (to be appointed by the union)

Up to 3 citizens-at-large (to be appointed by the Board of Selectmen)

In addition, the Building Committee shall have access to and is encouraged to rely on the expertise of Town Department heads and other staff.

The Building Committee's work shall be divided into two distinct but related phases (Design Development & Construction).

Design Development Phase

- Review of the February 2008 Maguire Group's Space Needs Program
- Assessment of current fire, rescue and medical response demands served by the West Natick Station, and evaluation of projected growth in the West Natick area and associated increase in said response demands.
- Determination of apparatus needed to appropriately respond to existing and projected demands, as well as personnel needed to fully staff such apparatus.
- Communicating with the Planning Board and Zoning Board of

Appeals regarding growing West Natick emergency response demands and the associated need for development of a new Station #4, with the objective of ensuring that, as appropriate, these Boards negotiate mitigation contributions from future developments in the area served by the West Natick Fire Station.

- Development of an RFP for design services (and likely Project Management services as well) for a new West Natick Fire Station; said RFP shall be submitted to and approved by the Board of Selectmen prior to being issued. The Building Committee shall evaluate responses to said RFP and recommend to the Board of Selectmen the preferred design firm/team.
- Working with the selected design firm/team, development of preliminary and final design plans, specifications, cost estimates and bid documents for a new West Natick Fire Station sized, located and designed to serve the existing and projected needs of the West Natick area and the community; determine means of providing service to the West Natick area during construction of a new West Natick Fire Station.
- At appropriate stages of the design development process, presentation to Boards and Committees whose approval is needed for project development. Through the design firm/team, submission of required permits and applications for approval of the project.
- In addition, at appropriate stages of the design development process, public presentation(s) of the proposal, with particular attention to the neighborhood in which Station 4 is situated.

Construction Phase

- Working with the selected design firm/team, and subject to the availability of funds, solicitation of bids for construction of Station 4. The Building Committee shall evaluate bids and recommend to the Board of Selectmen the preferred construction firm/team.
- Simultaneous with contractor selection, the Building Committee shall develop an RFP for a Clerk of the Works (and Project Manager if not part of the design firm/team contract); said RFP(s) shall be submitted to and approved by the Board of Selectmen prior to being issued. The Building Committee shall evaluate responses to said RFP and recommend to the Board of Selectmen the preferred Clerk of the Works (and Project Manager if applicable).
- During construction, the Building Committee shall meet regularly with the Project Manager to monitor the timely and cost-effective completion of the project



DETAILS

ENACTING RESOLUTION

ENACTING RESOLUTION
WEBSITE



Town of Natick

WEST NATICK FIRE STATION BUILDING COMMITTEE

BOARD ROSTER



CAPTAIN AUSTIN

No Term

Appointing Authority Board of Selectmen

Position Firefighter's Union Representative



JOHN CICCARIELLO

No Term

Appointing Authority Board of Selectmen

Position Finance Committee Representative/Chair



DEPUTY DOW

No Term

Appointing Authority Board of Selectmen

Position Deputy Fire Chief's Union Representative



FIREFIGHTER HARTWELL

No Term

Appointing Authority Board of Selectmen

Position Firefighter's Union Representative



PATRICK HAYES

No Term

Appointing Authority Board of Selectmen

Position Member-at-large



MICHAEL J. HICKEY, JR.

No Term

Position Board of Selectmen Representative



MICHAEL LENTINI

No Term

Position Fire Chief



ANDREW LONDON

No Term

Appointing Authority Board of Selectmen

Position Member-at-large



MELISSA MALONE

No Term

Appointing Authority Board of Selectmen

Position Town Administrator



WILLIAM SCHOENIG

No Term

Appointing Authority Board of Selectmen

Position Member-at-large



Patricia O'Neil <poneil@natickma.org>

Fwd: Composition of the West Natick Fire Station Building Committee

1 message

Michael Hickey <mhickey@natickma.org>

Tue, Sep 3, 2019 at 1:42 PM

To: Patricia O'Neil <poneil@natickma.org>, Selectmen <selectmen@natickma.org>

Board Members, FYI.

Trish, please upload this to Novus with the WNFS Building Committee agenda item.

Thanks,
Mike

----- Forwarded message -----

From: **Patrick Hayes** <phayes.fincom@natickma.org>

Date: Tue, Sep 3, 2019 at 1:34 PM

Subject: Composition of the West Natick Fire Station Building Committee

To: Michael Hickey <mhickey@natickma.org>

Dear Mike,

I'm submitting this letter to you in your role as the Chair of the BoS, and I'm doing so as the Vice-Chair of the WNFSBC. I have been acting in the role as Chair for much of the past six months. It is in the role as the acting Chair that I'm memorializing a few different conversations and providing a recommendation to the BoS who voted the initial committee charge and composition.

For background: The WNFSBC initially started with 10 members with one being the BoS appointee, one appointed by the Finance Committee, the Town Administrator, the NFD Chief, 3 NFD representatives from different groups, and three citizens at large positions. After the old chief retired and the new chief took on the committee assignment the total committee size was increased to eleven to allow the old chief to continue on the committee. Subsequently, the old chief resigned and the total composition returned to the original size and distribution. This is the committee composition still.

Issues: The committee has had some difficulty over the past six months in achieving a quorum for meetings. And at times when we do have enough for the meeting the headcount in attendance seems to be around 6 members. Recently, John Ciccariello has moved and has found it is difficult to make the trip back to Natick for weekday evening meetings. As the building project moves into the construction phase the committee is only meeting once each month, but those meetings are extremely important and time-sensitive. The committee can't afford to lose a month due to lack of quorum. I've spoken with John C and he is agreeable to stepping down in order to assist the committee in the quorum challenge.

Recommendations: As acting Chair, it's my recommendation that the BoS make adjustments to the committee composition by reducing the total voting members to nine from ten. Of those nine members, it's my recommendation that the BoS and Finance Committee still have one appointee each, the TA and NFD Chief remain on the committee, three additional NFD continue and we reduce to two from three for the citizens at large positions. With this new composition, the committee will have a higher likelihood of meeting its quorum headcount needs and we still will benefit from the various subject-matter expertise the project requires. Lastly, the committee should also have as an ex-officio (non-voting) member the former committee Chair, who is willing to provide his expertise and knowledge of these types of building projects. He would be available by phone for consultation with the committee, the architects and the Town Administrator for budgetary advice. Adding this position to the committee structure also requires action by the BoS

In closing, I thank the BoS for their time and attention to this important matter. Under normal circumstances, I would have appeared before your board to make this request directly and in-person. However, I'm chairing the Finance Committee meeting which runs simultaneously to your meeting. I'm hoping that this change will benefit the project and all parties involved in seeing this effort through to its successful completion.

--

Patrick Hayes
(508)-333-4994 (m)

Finance Committee Chairman
-Planning Governance Sub-Committee Chair

Financial Planning Committee Member

West Natick Fire Station Building Committee Member

Town Meeting Member

ITEM TITLE: Dangerous Dog Hearing:

ITEM SUMMARY: a. Consider whether to hold a public hearing
b. Vote to appoint hearing officer if a public hearing is to be held

ATTACHMENTS:

Description	Upload Date	Type
Letter from Mihaela Deliu RE Incident and Police Reports	9/23/2019	Cover Memo

On August 26, 2019, at approx. 9:30 am, I, Mihaela Deliu, was walking East on North Avenue in Natick, with my leashed 13 pound Mini poodle, Sighi. As I was walking on the sidewalk on the north side of North Ave., approaching 58 North Ave, I observed a thin brown-haired woman, in light colored workout tights and T-shirt walking towards me with a bull mastiff. She appeared to struggle to control her dog. She walked off the sidewalk into the parking lot toward the building at 58 North Ave. As I proceeded forward on the sidewalk, I observed, to my left, the woman yelling at her dog as it dragged her through the mulch and bushes of the garden. In a split second the mastiff attacked my dog grabbing it by the head and neck and began trashing him back and forth. I started screaming at her to get her dog away from us. I was in fear for my life and my dog's life. As she was completely unable to control her dog I started pulling at his leash with her screaming and trying to stop the mastiff from killing my dog. I was afraid the bullmastiff would turn on me and badly injure or kill me. I was in shock and in fear for my life. I saw blood and feces all over the sidewalk and on me from my dog as he was he was struggling for his life. During this attack, a woman stopped by in her car. I asked her to call the police. The postman also observed this happen. Eventually the police arrived. Officers Tossi and Hall arrived at the scene. By this time the woman had her dog secured to a nearby tree or poll and she was saying she was sorry. Multiple times. At this time I was sitting on the ground by my dog crying. He was bleeding profusely and was in shock. I heard officer Tossi telling her "I told you" multiple times. Officer Hall took my information. While I was still on the ground by my dog I raised my head and asked the woman who is going to pay for this. She said "I will." Officer Tossi handed me a piece of paper with the name "Butler" and a phone number on it. The postman ran back to his truck and brought a post office letterbox for me to put my dog in it. The woman who called the police came with a towel and covered my dog. The owner of the bullmastiff attempted to give me a hug. I left the scene while the police was still talking to the owner of the bullmastiff and other people around. A neighbor, Eddy, offered support. He transported me and my dog to Banfield Animal Hospital in Framingham (my vet). We arrived at Banfield at approx. 10:10 am. They provided emergency care and first aid

(approx. \$800). I left Sighi there for treatment and gave the medical personnel the name of Officer Hall and the name of the woman (Butler). At approx. 14:10, I received a call from Banfield instructing me that the dog needed advanced emergency care, since the X-ray showed fractures to the jaw and scapula, requiring a CT scan and surgery with potential need for metal plate to fix his jaw and there was suspicion of brain hemorrhage or damage,

I immediately left to pick Sighi up and bring him and his records from Banfield to Tufts Veterinary Hospital in North Grafton. He was taken in right away as an emergency and retained for the night. In order to start treatment they required a down-payment of \$4500. I gave them the phone number for Mrs. Butler, the owner of the bullmastiff, to arrange for the payment and begin medical intervention. At this time Officer Tossi contacted my boyfriend, Jamie Griffin, and reported that the bullmastiff had a history of aggression towards other dogs. As I was in deep emotional distress, my boyfriend also called Mrs. Butler after she declined to make any payment to the receptionist at the emergency room. During Jamie's conversation with Mrs. Butler, she agreed to accept responsibility and payment.

When the receptionist called her back to complete the transaction, Mrs. Butler said can only pay \$1000. At some point Mr. Butler got on the phone and spoke with Jamie. At this time he said he'd get a lawyer, denied responsibility for the attack, and said he would not pay at all. Since the down-payment to start treatment to save my dog was \$4500, I signed up for an emergency line of credit to cover the cost.

Upon return to Natick, I went back to the location of the attack and took pictures of the blood and feces on the ground, as well as the marks left by the bullmastiff and his owner in the mulch as her dog lunged to attack mine and dragged her through the bushes. I also went with Jamie to the Natick PD and was advised to fill out paperwork to retrieve the police entry/log corresponding with this incident.

After coming home, I observed I had a bleeding abrasion on one of my right foot toe and my right knee and lower back started stiffening and causing me sharp pain. I took 400 mg of Ibuprophen.

As of now (20:23 pm) I am at home awaiting a call from Tufts to hear if my dog will make through the night. The additional imaging and the surgery are scheduled for tomorrow, 8/27.

For Date: 08/26/2019 - Monday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>	<u>Priority</u>	<u>Duplicate</u>
19-13695	0944	Phone - Animals (Other)	P - Services Rendered	2	
Call Taker:	41494 - BAUR, SUSAN				
Call Modified By:	41665 - FORDE, VINCENT				
Location/Address:	[NAT 3939] WALNUT PLACE RESIDENCES - 58 NORTH AVE				
Jurisdiction:	Natick				
Party Entered By:	08/26/2019 1024 41665 - FORDE, VINCENT				
Involved Party:	DELIU, MTHAELA DIANA @ 12 WALNUT ST Apt. #16 - NATICK, MA 01760 508-944-6565				
	SSN: [REDACTED] DOB: [REDACTED] Race: W Sex: F				
Party Entered By:	08/26/2019 1026 41665 - FORDE, VINCENT				
Modified By:	08/26/2019 1107 43641 - PEDRO, EDWARD				
Involved Party:	BUTLER, JULIE M @ 4 HILLSIDE RD - NATICK, MA 01760-2110 508-333-1312				
	SSN: [REDACTED] DOB: [REDACTED] Race: W Sex: F				
Unit:	66 HALL, RYAN				
	Disp-09:44:39	Arvd-09:47:43	Clrd-10:21:47		
Cleared By:	41665 - FORDE, VINCENT				
Unit:	80 TOSI, KEITH				
	Disp-09:44:49	Arvd-09:46:23	Clrd-10:21:56		
Cleared By:	41665 - FORDE, VINCENT				
Narrative:	08/26/2019 1021 BAUR, SUSAN				
	Caller reports tgwo dogs fighting.				
Narrative:	08/26/2019 1022 BAUR, SUSAN				
	ACO reports all parties advised and satisfied.				
Narrative:	08/26/2019 1022 FORDE, VINCENT				
	Officers report parties separated, information exchanged, other half to take her dog to the vet.				

For Date: 08/17/2017 - Thursday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>	<u>Priority</u>	<u>Duplicate</u>
17-14252	2116	Phone - Animals (Other)	P - Services Rendered	2	
Call Taker:	46446 - DOWNER, SANDRA				
Location/Address:	1 FRANKLIN ST				
Jurisdiction:	Natick				
Party Entered By:	08/17/2017 2117 46446 - DOWNER, SANDRA				
Modified By:	08/17/2017 2139 45945 - MCMEEKIN, JAMES				
Calling/Inv. Party:	BOLKVADZE, NATIA @ 1 FRANKLIN ST - NATICK, MA 01760 860-733-3044				
Party Entered By:	08/17/2017 2139 45945 - MCMEEKIN, JAMES				
Involved Party:	BUTLER, DEREK E @ 4 HILLSIDE RD - NATICK, MA 01760-2110 508-653-2174				
	SSN: DOB: Race: W Sex: M				
Unit:	66 DIMODICA, CHRISTOPHER				
	Disp-21:17:59 Arvd-21:33:30 Cld-21:37:53				
Arrived By:	45945 - MCMEEKIN, JAMES				
Location Change:	4 HILLSIDE RD [Modified: 08/17/2017 2133]				
Jurisdiction:	Natick				
Narrative:	08/17/2017 2120 DOWNER, SANDRA				
	Caller reports her dog was attacked by a bull mastif off leash.				
Narrative:	08/17/2017 2153 DOWNER, SANDRA				
	Officer spoke to all involved and will speak with animal control officer.				